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No.

Supreme Court, U.S.
FILED
JUL 20 1983
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Board of Adjustment of the City of Hackensack, and members thereof individually, Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and North Jersey Friendship House, Inc., a New Jersey Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Multi-Pak Corporation, a Corporation of the State of New Jersey, Arnold Bornstein, Esq., City of Hackensack, a Municipal Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and City of Hackensack, a Municipal Corporation,

Appellees

On Appeal From The Supreme Court of New Jersey

JURISDICTIONAL STATEMENT

Salvatore Moretti
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QUESTIONS PRESENTED

I. Are the municipal zoning agency and the municipal zoning officer enforcing the zoning laws liable under 42 U.S.C. §1983 so that the grant of summary judgement to the City of Hackensack was unconstitutional?

II. Do the zoning and nuisance violations complained of regarding the Gutterman, Musicant, Kreitzman funeral parlor and its lessee psychiatric halfway house constitute an abrogation of constitutional rights and liabilites due to an excessive entanglement between the church and the state?

III. Has appellant made out a prima facie case showing numerous constitutional violations, such that respondants have failed to disclose any legal justification to persist in their offensive business practices?

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Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and City of Hackensack, a Municipal Corporation,

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On Appeal From The Supreme Court of New Jersey

JURISDICTIONAL STATEMENT

Appellants Salvatore Moretti and the ownership entities Moretti Realty Associates, Ltd. (in which Salvatore Moretti was the general partner), and ROR Construction Corporation (in which Salvatore Moretti was the president of the closely held family corporation) appeal from the New Jersey Supreme Court's denial of their petition for certification. The trial court's oral decision (App. 27) denied all relief to the appellants who are the property owners of residential properties located at 390-391-397 Park Street, Hackensack, New Jersey. The properties consist of a twenty unit garden apartment house assessed at $300,000 and a single family home (390 Park Street) within which Salvatore Moretti lives and maintains his office. The three complaints heard on an informally consolidated basis by the Chancery Court in March, 1981 were later formally consolidated. The Gutterman, Musicant, Kreitzman funeral parlor is located at 402 Park Street across from Park Court Apartments (but its parking lot is adjacent to Park Court Apartments) on the same side of the street as 390 Park Street. 387 Park Street was purchased by the funeral parlor in the early 1970's and leased to the North Jersey Friendship House Psychaitric Rehabilitation Center for use as a halfway house for psychiatric patients.

Multi-Pak originally leased property to the west of Park Court Apartments and adjacent thereto from Arnold Bornstein, Esq., the Jewish lawyer from Paterson, New Jersey. Multi-Pak purchased the property from Bornstein in 1981 shortly after the Chancery trial decision rendered by Judge Petrella. The Multi-Pak factory is constructed six inches from Park Court Apartments, and manufactures heavy steel garbage compactors, processing raw steel into the finished product for use in commercial and industrial locations.

This statement is submitted to demonstrate that the Supreme Court has jurisdiction of this appeal and that substantial questions of national import are presented.

OPINION BELOW

The unreported oral decision of the Chancery Court is included in the Appendix at App. 29, and the intermediate appellate division decision is set forth at App. 12. The New Jersey Supreme Court did not render a written decision and refused to grant appelant's petition for certification. (App. 10)

JURISDICTION

The initial remedy sought was with the equity court in Bergen County, wherein the properties are situated. The complaints referred to numerous problems incurred during the operation of the subject real property in Hackensack, New Jersey.

Appellants have been property owners in Hackensack since 1958, and the complaints recorded almost every conceiveable sort of harassment to property interest conceivable. The property has undergone numerous real estate tax appeals, which are currently before the Appellate Division of the Superior Court of New Jersey. A legal malpractise case involving appellant's former attorney, Robert Hollis, Esq., is currently pending before the Appellate Division. Hollis preceded Edward Evans, Esq. as the attorney of record before the New Jersey court system, and he was suspended from the practice of law by the New Jersey Supreme Court due to the manner in which he handled the representation of ROR Construction Corporation. ROR Construction Corporation was dissolved during the course of this lawsuit, and Moretti Realty Associates, Ltd. was subsituted as the ownership entity, which itself was dissolved and replaced by Salvatore Moretti as the sole proprietor.

Jurisdiction is claimed under a whole spectrum of State and Federal Consitutional violations of the civil liberties of Salvatore Moretti and the ownership entities and business interests of Salvatore Moretti. Numerous state statutes are cited in the notice of appeal to the United States Supreme Court, referring to various unfair business practices evidenced in the testimony and exhibits before the Chancery Court.

Prominent in the Federal statutory protections cited is 42 U.S.C. § 1983, which was cited in appellants' brief in the Chancery Court in opposition to Hackensack's motion for summary judgment, and which has been raised also before the Appellate Division of the Superior Court of New Jersey and before the New Jersey Supreme Court (App. 36).

Appellants set forth before the New Jersey Supreme Court numerous church-state entanglements (App. 43), and stated that guarantees of separation of church and state had been violated (App. 45).

Appellant stated to the Appellate Division at the oral argument on November 30, 1980, that:

> When I was before the Municipal Magistrate, Judge (Zisa) stated that I (would) be placed in a jail cell rather than be allowed to make any statements with respect to Multi-Pak Corporation. (Supreme Court of New Jersey Appendix 42-11)

At oral argument before the Appellate Division, appellant claimed that he had been subjected to an unfair trial and stated that "the Court showed bias" (Appendix 43-24). Appellant claimed suppression of evidence (Appendix 43-3), and claimed "a clear case of nuisance and tortious interference with my property rights under the United States Constitution to have a fair hearing on the merits where you have the basic freedoms to live and to pursue one's livelihood and ownership (of) property" (Appendix 45-19)

STATEMENT OF THE CASE

Despite the fact that appellants have continuously owned the twenty unit apartment house located at 391-7 Park Street, Hackensack since 1958, and have owned 390 Park Street, Hackensack since prior to the Chancery trial in 1981, appellants have been given no equitable relief from the nuisances complained of to the Bergen County, New Jersey Chancery court.

A whole spectrum of management problems have occurred at the residential properties, including a rent control case which went up to the Appellate Division of the Superior Court of New Jersey, a number of difficulties with lawyers filing papers in the courts, a number of appearances due to nuisances complained of before the zoning board, planning board, and mayor and council.

Every conceiveable form of harassment technique has been encountered from the apparent arson burning of 111 Passaic Street, Hackensack, on March 10, 1978, (111 Passaic Street is sixty-five feet to the north of Park Court Apartments), to the move-in of mental patients into 387 Park Street (located directly to the south of Park Courts Apartments and adjacent thereto) sometime in 1976, to the move-in in 1973 (mistakenly believed to be 1956 by the Trial Court at App. 30)without variance approval by the Hackensack Board of Adjustment of the Multi-Pak Corporation into 400 Railroad Avenue, Hackensack. The Multi-Pak factory site is zoned M-1, Manufacturing. There are two manufacturing use districts in Hackensack, M-1 and M-2. The M-2 use district includes all uses within the M-1 use district, but adds to that list "trucks and bus terminals and yards".

The M-1 use district under the Schedule of District Regulations, Part 3, stipulates that:

> General manufacturing plant or establishment for processing, fabrication or assembly, provided that there is no resulting noxious or offensive odor, dust, smoke, gas, noise, vibrations, heat, vapor or glare beyond the boundary or lot on which such use is located, and provided further that such use is not expressly prohibited by this chapter.

Multi-Pak produces noxious and offensive odor from its five acetylene torch stations, produces smoke from the burning or abrasing of the metal plates used in the manufacturing of the compactors as pictured in the Appendix, and produces vibration particularly in the bending of the one-half inch metal which is performed on the premises with a pneumatic press. The vibration produced has had a deteriorative impact on the buildings

comprising Park Court Apartments resulting in cracks appearing in the hall walls in particular. Also, there was testimony in the Chancery Court that late night manufacture after 10:00 p.m. kept the tenants awake at night. In addition, the opening of the rear windows of the plant subsequent to the take over by Multi-Pak resulted in an increase in sound transfer to Park Court Apartments. These windows had been sealed for a number of years, and were located at the rear of the Multi-Pak plant. Since the plant is built six inches from the lot line of Park Court Apartments, the nuisances complained of were exaccerbated by this contiguity.

The North Jersey Friendship House psychiatric halfway house located at 387 Park Street, was leased by the Gutterman, Musicant, Kreitzman funeral parlor to lessee, which secured a boarding house permit from the appellee City of Hackensack. This practice was contrary to the prior practice of requiring variance approval by the Board of Adjustment. The precise procedure was changed with the passage of a state statute allowing such uses with Board of Adjustment approval, but the statutory change occurred several years after the move-in complained of. Further, the nuisances complained of would not be protected under the new statutory framework

Numerous ethnic conflicts, religious conflicts, racial conflicts, and social class conflicts have manifested themselves in a series of economic and political crises in Hackensack. In the cases at bar, the surburban elite residing in areas outside of Hackensack has attempted to modify the traditional residential uses which have endured on Park Street for over a century. (Prior residential owners adjacent to the funeral parlor disclosed a history of neighborhood conflict.)

Whereas David Musicant and his wife who began the funeral parlor in the late 1940's lived at the funeral parlor, the new ownership is comprised of individuals who have taken up residence outside of the city, and even outside of the state. This is the case with the other defendants as well.

The urbanizing process has occassionally been beneficial when traditional values have not been imperiled and when the forces of change have not resorted to drastic tactics to overcome local resistance. The reputation of Salvatore Moretti in the community stems from the fact that he was born only six miles from the properties in question, and has maintained residence in the immediate vicinity for over forty years. He attended a Bergen County grammar school and a Bergen County high school, and with the exception of his university training in Washington, D.C. (at George Washington University), he has maintained continuing residence either at or close to the residential properties in question. His knowledge of the community has been derived from his founding of the Hackensack Apartment Owners Association and his running for the city council, and from his participation in the municipal planning process.

Appeal to the United States Supreme Court is sought since what appears to be a local zoning conflict has achieved far broader scope due to the national interest in the Moretti name derived from frequently unwanted and unjustified media coverage. It is apparent from reading the materials included in the appendix that the appellees did not expect that these "local" matters would be presented in their constitutional and federal context to the United States Supreme Court. The business tactics employed to further the interests of the appellees are clearly not typically discussed at the local level, since they involve broad policy issues which go to the very core of freedom and democracy. The protection of vested interests has exceeded the bounds of common decency, and Salvatore Moretti has used his background in the humanities and in clinical psychology (as well as in real estate) to give an unusually detailed description of the actions of the appellees.

Pre-trail publicity favored the appellees, since they presumably were conducting legitimate businesses, and were veiled with the cloak of the helping professions (the deinstitutionalization movement in psychiatry, and the burial of the dead for the bereaved). However, both the halfway house movement and the funeral industry have received much negative publicity

due to their abuse of their proper role in the community. The neglect to inform neighbors of the dangers involved in bringing mental patients into the community bespeaks the disrespect for the community role of psychiatry at the core of the deinstitutionalization movement. The expansion of the funeral home in 1970 occured under circumstances wherein Joseph Rizzi of the law office of Winne and Banta failed to object to the variance applied for by the mortuary. This was discussed at the chancery court. The involvement of legal malpractice coupled with psychiatric malpractice form the crux of many of the problems in these consolidated law suits. When Salvatore Moretti hired the services of Richard Galofaro to do a study of the Multi-Pak garbage compactor factory, Galofaro failed to even enter the plant, and Moretti had to photograph the interior of the plant himself under court order during a lawsuit instituted against Galofaro for professional malpractice.

While urban development and renewal are great boons to the people, when professionals neglect to consult local property owners and plan for their benefits, the planning process itself becomes suspect. Such was the situation in the cases at bar. In the present case, the local population has refused to accede to the demands of those who would destroy their traditional morality even thought, it needs the benefits of the money spent by dominant interest groups.

The religious controversy between the Jewish funeral parlor and Salvatore Moretti runs throughout the lawsuits. The broader context within which the zoning issues were discussed highlight Moretti's prior history in the state as exemplified by newspaper coverage by the Hackensack Record newspaper. This history shows white collar corruption in New Jersey and the untimely deaths of Moretti's father, Salvatore Moretti (Sr.) and his uncle, William Moretti. Salvatore Moretti (Sr.) died in Trenton State Prison due to a "cerebral vascular accident" on or about June 8, 1952. William Moretti reportedly was murdered on October 10, 1951. The close proximity of these untimely deaths coupled with the appearances of both men before the Kefauver Investigation Commission (televised on national television) a short time before have evoked national attention to the subsequent difficulties of the Moretti family. The Italian

community has been particularly interested in these events, as have the Blacks of Hackensack and New Jersey who have known the Morettis for many years. Hackensack has a large Italian community. The community to the west of the subject properties is predominantly Black. Jewish influences in the law courts and the judiciary has run counter to the population in the land use disputes at issue, and the resulting conflict has brought these consolidated lawsuits to the United States Supreme Court for judicial resolution.

The circumstances surrounding the deaths of Salvatore Moretti (Sr.) and William Moretti have achieved great significance since both deaths have either gone unsolved or are cast in a cloud of doubt regarding the justice handed out by the State of New Jersey, and the Federal Government. Both men were family men whose popularity was based on their Italian ancestry and their courage in fighting for human rights against the coercive impact of the criminal justice system of the late 1940's. The rekindling of interest in the Moretti family stems from the continuing controversy surrounding the deaths of these men, and due to the negative treatment received by their highly educated and respected sons, Salvatore (now in his third year at New York Law School), Gennaro Moretti (who attended New York University Law School for two years), and Emil Moretti (who was graduated from Rutgers Law School). All three men have involved themselves in the operation of Park Court Apartments from 1958, and even their mother, Theresa Moretti has tried to alleviate the problems generated by conflict with the Jewish group connected with the funeral parlor. All have failed to achieve the solution which normally would have been forthcoming. The malice displayed by the funeral parlor has set Salvatore Moretti to working eighty-five hours per week for over a decade to achieve some measure of success. The exhibits offered at the chancery trial bespeak the malice displayed by the Jewish funeral parlor. It is clear that this animosity extends to the constitutional bases of government. The local application of the law to the subject dispute displays the deep enmity felt by a judiciary which has succumbed to undue pressures and has been unable to bring peace to this small Hackensack community, which deserves better treatment.

The circumstances leading up to the deaths of Salvatore Moretti (Sr.) and William Moretti may shed some light on the controversy herein, for national attention was focused on these men, and this attention involved Hackensack, and New Jersey as well. When Salvatore Moretti resided in Hasbrouck Heights, New Jersey, he attended Corpus Christi grammar school. The circumstances leading up to the Kefauver hearings affected his life, since he lived at home and experienced the investigative techniques men were subjected to who were cast in the role of members of Italian crime. Salvatore Moretti (Jr.) was the object of great attention since he witnessed unconstitutional invasions of the rights of his father and mother. These invasions even included agents entering the family home and coercing his mother to reveal information which could be used against his father. Due to his tender years (he was beginning school), he witnessed unseen unspeakable invasions of undercover agents who carried a pass key to the Moretti household. He revealed these illegal techniques to his father, his uncle, and to Albert Anastasia, all three of whom are now dead. *Irvine v. California,* 347 U.S. 128 (1953) recounts a much milder case involving criminal investigation, although the assault which was involved here, would overturn the admissibility of this illegal search and seizure. Salvatore Moretti (Jr.) was also targeted due to his influence upon his father's well being, and consequently he received brutalizing treatment at Corpus Cristi grammar school and thereafter at Englewood School for Boys (attended from 1950 to 1958). In a visit to Trenton State Prison, he viewed his father being knocked unconscious by a prision guard. The guard had participated in an unprovoked attack upon Salvatore Moretti (Sr.) when Salvatore (Jr.) had reported efforts to secure his father's release. The attention surrounding the Moretti case had drawn interest from Hollywood, and even motion pictures were made starring Edward G. Robinson, etc. Salvatore Moretti (Jr.) has opposed capital punishment ever since, and his justifiable efforts to secure information regarding the circumstances surrounding these deaths has alarmed many who feared national scrutiny of the criminal justice system in this country. His family as well has been disquieted by the right wing extremist tactics used against his father and uncle. The professional malpractice

used against his father has unfortunately been carried over against the son, apparently to protect state secrets. His concern about the miscarriage of justice in this country has received much attention from his associates, who view such matters with alarm. Undue publicity and mass hysteria unfortunately have carried over from the older generation to the younger. Mention is made of trese prior circumstances, since they have been rehashed in the press, and have influenced the adjudiation of the present lawsuits. The chancery court's refusal to allow an advisory jury (App. 25) and refusal to allow Salvatore Moretti (Jr.) to intervene pro se (App. 21) along with the trial court's continuous interruption of testimony of Moretti reveal the court's fear that unwanted facts would be revealed. During the course of the trial, the judge even altered the transcript and dismissed the shorthand reporter. Counsel for Moretti was hindered in his presentation of the case, and the constitutional protections afforded litigants were thusly denied.

POINT ONE

THE MUNICIPAL ZONING AGENCY AFTER OWEN V. CITY OF INDEPENDENCE IS SUBJECT TO LIABILITY UNDER 42 U.S.C. § 1983 SO THAT THE TRIAL COURT DETERMINATION TO GRANT THE CITY OF HACKENSACK SUMMARY JUDGEMENT IN ITS FAVOR WAS UNCONSTITUTIONAL.

In *Monell v. Department of Social Services,* 436 U.S. 658 (1978), the Supreme Court reevalaluated the history surrounding 42 U.S.C. § 1983 and overruled its earlier determination in *Monroe v. Pape,* 365 U. S. 167 (1961) that it was Congress' intent to exclude municipal corporations from liability. In *Owen v. City of Independence,* the Supreme Court extended the *Monell* decision and held that municipalities will be held strictly liable for any constitutional violations. The gradual incorporation of the Bill of Rights into the due process clause of the 14th amendment has increased the scope of remedies available under section 1983.

There should be strict scrutiny of zoning violations where fundamental constitutional interests are at stake, and it is clear from the voluminous exhibits offered at trial and from the trial testimony that appellants' rights of ownership and participation in government were imperiled by appellees.

Both the Friendship House psychiatric halfway house and the Multi-Pak Corporation garbage compactor factory failed to apply for zoning variances to operate outside of the existing zoning code. The Friendship House operation was clearly not permitted under the zoning code, since this very issue of a psychiatric halfway house being licensed as a boarding house was litigated in the case of *Buonanno v. Zoning Board of Hackensack,* L-21194-72, with the determination that the institutional use could not be so licensed and required zoning board approval. (Note letters appended, dated October 4, 1977 and December 8, 1977.)

The heavy industrial machinery located in the Multi-Pak plant is depicted in the appendix, and it is evident that the operation of the factory which was built to within six inches of the lot line of Park Court Apartments produced vibration, noise, and air pollution not permissible under the zoning code for properties in the M-1 light industrial use district.

The imperiling of appellants' rights to convert its apartment property for condominium or cooperative use was evident since they were actively involved in the Hackensack Apartment Owners Association and several thousand apartment units in Hackensack within two miles has been converted in the late 1970's and early 1980's.

The malice of appellees is clear from their long term intransigence at modifying their operations, and from the support they received when the Chancery Court refused to modify their operations in any respect at all.

The anti-competitive impact of such a zoning policy under the circumstances herein is reinforced by the attempts of the funeral

parlor to purchase properties whose zoning excludes funeral use within the R-3B use district occupied by the appellants.

There were consciously paralled refusals to discuss the nuisances complained of and the increased level of hazard to residential use was apparent to all. There was entanglement between the Jewish funeral parlor and the municipality, which manifested itself by invitees of the funeral parlor actively assisting the municipality in its legal representation and also serving as judges within the County Court House located six blocks from the Hackensack City Hall.

An example of the municipal policy of neglect herein is the burning down of 111 Passaic Street, Hackensack, on March 10, 1978, after three years of nuisances emanating from the property went unremedied by City Hall. The property at that time was owned by Hyman and Lenore Chait, and the apartment house tenants were forced to abandon their bedrooms to sleep away from the excessive noise. The Chait property is adjacent to the funeral parking lot and in the line of expansion of the mortuary.

When Municipal Judge Zisa, brother of then Mayor Zisa, heard the Multi-Pak and Gutterman, Musicant, Kreitzman funeral parlor complaints in municipal court, he refused to even call Multi-Pak or Bornstein to the trial, or hear the matter. He refused to act on the funeral matter since he had Jewish friends and attended the funeral parlor himself.

Due to the entanglement between the Jewish funeral parlor and the other appellees and the city, it is evident that their actions constitute an ongoing agreement to deprive appellants of their constitutional rights of property ownership.

State involvement is also illustrated by the loan of over $300,000 supplied by the New Jersey Department of Economic Development to finance the purchase of the factory from Arnold Bornstein, Esq. by its lessee, the Multi-Pak Corporation.

As noted in Comment, *Anti-trust Laws, Zoning and Agreements to Zone: Delegation of Police Powers after Lafayette v. Louisiana Power and Light,* 25 S.D.L. Rev. 330 (1980):

> The *Lafayette* court indicated that a "subordinante governmental unit's claim to *Parker (Parker v. Brown* 317 U.S. 341 (1943) immunity is not as readily established as the same claim by a state government . . . " Therefore, the conclusion that *Parker* immunity applies to municipal zoning requires finding "from the authority given a governmental entity to operate in a particular area, that the legislature contemplated the action complained of."

It is submitted that the state could not legally have contemplated the municipal policy of neglect revealed in appellants' trial exhibits and testimony.

POINT TWO

THE ZONING AND NUISANCE VIOLATIONS COMPLAINED OF REGARDING THE GUTTERMAN, MUSICANT, KREITZMAN FUNERAL PARLOR AND ITS LESSEE PSYCHIATRIC HALFWAY HOUSE CONSTITUTE AN ABROGATION OF CONSTITUTIONAL RIGHTS AND LIBERTIES AND SHOWED AN EXCESSIVE ENTANGLEMENT BETWEEN CHURCH AND STATE.

The historical justification for the constitutional separation of church and state was the fear that the collusion between the church and the state would bring two of the most powerful techniques of psychological control into unison to deprive the populace of freedom of thought and action. Political repression and right wing extremism grow amidst the fertile coalition of church-state powers joined into a single governmental structure. Appellants claim that this extremism is evidenced in tha land use disputes herein where the City of Hackensack was rendered ineffectual before the state and religious connivance which is objectified in the nuisance complaints at bar.

In the consolidated cases at bar, freedom of expression and freedom to operate absent social and cultural oppression have been drawn into stark relief. After fifteen years of continuous operation from 1958 to 1973, the owners of Park Court Apartments were bombarded by a series of nuisances which went uncorrected by the municipality. Appellants seek federal judicial resolution since the state judiciary is at least partly responsible. When the Moretti Estate in Demarest was sold in 1958, the thirty-two acre property was acquired by the next door neighbor, the Aldecress Country Club. Ninety-five percent of the clientele of that club was Jewish, and the ownership was Jewish. In addition, the Jewish law office of Heller and Laiks in Passaic, New Jersey along with Eugene Dinallo had convinced Theresa Moretti to construct Park Court Apartments next to the Jewish funeral parlor, with the ownership entity being ROR Construction Corporation. The Heller and Laiks law office handled the incorporation of ROR Construction Corporation. Gennaro Moretti was made President of ROR Construction Corporation.

It was well known that the Aldecres Country Club was attended by numerous Jewish Judges and politicians from the New York metropolitan region. Further, these men believed that this investment in Hackensack would allow them to control the Moretti wealth, and to stem feared litigation by Salvatore Moretti.

Theresa Moretti was suffering not only from the death of her husband in Trenton State Prison, but from the murder of William Moretti, her brother-in-law, and from the confinement of her oldest son, Gennaro Moretti, to a hospital. Apparently, Gennaro Moretti was badly treated due to the revelations to him of the circumstances surrounding the death of Salvatore Moretti (Sr.) by Salvatore Moretti (Jr.). Such has been the odd treatment received by the Moretti family before the state court system, which continues in the law suits at bar.

The entanglement between the state and the Jewish religion are so obvious, and the involvement of the judiciary in covering up these entanglements is so clear that it is difficult to take

seriously the failure of the judiciary to protect the property interests of Salvatore Moretti and the ownership entities, Moretti Realty Associates, Ltd. and ROR Construction Corporation. The extreme nature of the constitutional violation of church-state relations persists, however, and appellants seek judicial resolution by the United States Supreme Court.

POINT THREE

A PRIMA FACIE CASE SHOWING NUMEROUS CONSTITUTIONAL VIOLATIONS HAS BEEN MADE OUT BY APPELLANTS, AND APPELLEES HAVE FAILED TO DISCLOSE ANY JUSTIFICATION TO PERSIST IN THEIR OFFENSIVE BUSINESS PRACTICES.

Appellees have conspiratorially created a psychologically damaging environment destroying the peace and tranquility of the Park Street residential neighborhood. Gutterman, Musicant, Kreitzman has conducted an endless series of funeral processions up and down Park Street, disturbing the residents with repeated visions of death. Coupled with attempts to buy out property owners and interfere with their business operations (appellant testified to an almost total shut-down of Park Court Apartments in 1976) these disturbances have caused serious psychological problems in the subject neighborhood. The homeowners preceding ROR have testified to identical treatment by the funeral parlor. Joining with the mortuary were the garbage compactor factory, the halfway house, and the nuisance boarding house that burned down. Considering all of these factors together, relief should be granted.

Appellants have repeatedly sought judicial resolution of these problems within the state court system, and have secured the legal services of such law offices as Rothbard, Harris and Oxfeld; J. Noble Sellarole, Thomas Loman, Robert Hollis and Edward Evans. All this was of no avail.

Salvatore Moretti has suffered a loss of reputation and loss of earnings due to the limitations placed upon his time for twenty-five years, and due to the loss of tenants and business prospects. The extent of these monetary losses is far greater than considered at the Bergen County Chancery Court, due to the failure of the local court to consider the value of the professional reputation of a man of Salvatore Moretti's caliber. The business losses of Salvatore Moretti exceed the combined value of all of appellees' businesses. Appellees with their limited perspectives cannot afford to pay appellant for twenty five years of interference.

Due to the litigation within, a network of business, political, and judicial relationships has emerged which suggest that judicial resolution by the state could not be expected. These interrelationships have allowed appellees to function beyond the pale of the law. An elaborate quid pro quo has been demonstrated, in which State Senator Matthew Feldman (convicted of a felony due to bribes in his liquor business) and former Mayor Kazimir Wysocki have been revealed to be on the Board of Directors of the North Jersey Friendship House. Melvin Gittleman Esq. along with Judge Harvey Smith frequently attend the funeral parlor, and now Gittleman's office is handling the defense of tax assessment policies for the City of Hackensack. Judge Harvey Smith, acting as the preogative writ judge for Bergen County, dismissed the suit brought originally by Robert Hollis against the North Jersey Friendship House, despite the clear conflict of interest.

The state court system has improperly employed the device of the corporate ownership of Park Court Apartments in order to drive a wedge between a family and its property. The requirement of continuously hiring legal advice has resulted in twenty-five years of exorbitant legal expenses.

In addition, consistent interference by the police, who had assisted in the conducting of funeral processions, has strained community-government relations.

Judicial government is no substitute for local zoning policies administered on the local level, but the pressures exerted on local government have displaced it as the proper arbeter in these cases where constitutional rights are threatened.

The trial court failed to properly consider the psychological pressures being placed on appellant Salvatore Moretti. The psycholgical mis-labeling of appellant has damaged his reputation, and the appellees should be held liable.

The epidemiological consequences of excessive publicity of a war on organized crime has resulted in appellants' being denied simple justice and fundamental fairness in the state court system.

The persistent denial of zoning protection described herein should not be held to vest rights in appellees who have not earned those rights by honest and lawful conduct.

The parading of the dead in funeral processions on Park Street by the mortuary should be eliminated, since there are alternatives for ingress and egress available on Passaic Street. Discovery, which was interfered with on the state court level, may lead to a further requiremnt to limit the business operations of appellees. Buffers should be created so as to allow appellants to operate within their zone under the zoning protection accorded them under the municipal land use law and under the residential zoning classification within which they exist.

The fanaticism of pressure group politics should not be allowed to interfere with fundamental liberties, as it has in the subject law suits. The mis-use of zoning maps should not be allowed to disrupt the cognitive maps men rely upon to conduct their affairs.

Justice Blackmun in his dissent in *Smith v. Collin*, 439 U. S. 916 (1978) (regarding the Nazi marches in Skokie, Illinois) stated:

> On the one hand, we have precious First Amendment rights vigorously asserted and an obvious concern that, if those asserted rights are not recognized, the precedent of a "hard" case might offer a justification for repression in the future. On the other hand, we are presented with evidence of a potentially explosive and dangerous situation, inflamed by unforgettable recollections of traumatic experiences in the second world war conflcit.

The marches in the Skokie case were isolated, whereas the Gutterman, Musicant, Kreitzman mortuary seeks to hold an endless series of processions up and down Park Street, and to operate without the conventional buffers which are used to shield the dead from residential uses. The lack of any fencing or greenery on the southern exposure of the mortuary has been used to break down the zoning which has confined it to the northern tip of Park Street.

In balancing the equities herein, the considerable educational and business experience and reputation of Salvatore Moretti should be duly considered against that which appellees offer. Their collective reputations are minor by comparison, and they cannot now contend otherwise.

The United States Supreme Court should balance those equities, since the state court system tried but failed. The damages which have been incurred by appellants cannot be recompensed by appellees, and a continuing harassment should not be allowed to drive appellants out of their homes and deprive them of the fruits of a lifetime of work.

Furthermore, the improper resolution of these law suits should not deprive the Moretti family of yet another generation of equitable treatment.

CONCLUSION

The Chancery court of Bergen County, New Jersey erred in resting its decision almost entirely on the "demeanor" of Salvatore Moretti, whose testimony went unrebutted by the appellees. The Appellate Division of the Superior Court after oral argument before Judges Polow and Brady affirmed in a one page decision which failed to reach the merits of the consolidated cases. The New Jersey Supreme Court failed to grant appellant's petition for certification. In view of the overwhelming weight of the facts proving nuisance and in view of the clear balance of equities in favor of appellants, it is urged that the United States Supreme Court grant jurisdiction.

Dated: July 18, 1983

Respectfully submitted,

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601
Telephone No. (201) 646-1414
Pre Se Appellant

No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Board of Adjustment of the City of Hackensack, and Members thereof individually, Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and North Jersey Friendship House, Inc., a New Jersey Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Multi-Pak Corporation, a Corporation of the State of New Jersey, Arnold Bornstein, Esq., City of Hackensack, a Municipal Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and City of Hackensack, a Municipal Corporation,

Appellees

On Appeal From The Supreme Court of New Jersey

APPENDIX TO JURISDICTIONAL STATEMENT

Salvatore Moretti
390 Park Street, Hackensack, New Jersey 07601
Telephone: (201) 646-1414
Pro Se Appellant

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App. 1

Filed In The
Supreme Court of New Jersey
And
The Appellate Division of the Superior Court of New Jersey

No. _____

Salvatore Moretti, Moretti Realty Associates, Ltd., A Limited Partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Board of Adjustment of the City of Hackensack, and members thereof individually, Gutterman, Musicant, Kreitzman, Inc., a New Jersey Corporation, and North Jersey Friendship House, Inc., a New Jersey Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a limited partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Multi-Pak Corporation, a Corporation of the State of New Jersey, Arnold Bornstein, Esq., City of Hackensack, a Municipal Corporation,

Appellees

Salvatore Moretti, Moretti Realty Associates, Ltd., a limited partnership of New Jersey, and ROR Construction Corporation, a Corporation of New Jersey,

Appellants

v.

Gutterman, Musicant, Kreitzman, Inc., A New Jersey Corporation, and City of Hackensack, a Municipal Corporation,

Appellees

Notice of Appeal to the Supreme Court of the United States

Notice is hereby given that, pursuant to the Civil Rights Laws (to wit, 42 USC§1983 - deprivation under color of law, 15 USC § 1, 18 USC § 241 (conspiracy against rights of citizens), property rights of citizens - 42 USC § 1982, rights to equal protection under the law - 42 USC § 1981; and pursuant to the rights afforded under the United States Constitution, namely the first amendment right of freedom of belief, association, speech, assembly, and petition, seventh amendment right to trial by jury, the rights guaranteed under the ninth, tenth, and thirteenth amendments, the fourteenth amendment rights of due process and equal protection under the law, the common law of unfair competition, and right of common law against inverse condemnation, and rights of just compensation afforded under the United States Constitution, and rights of protection afforded under the Sherman Anti-Trust law, and the right to be free from religious persecution afforded under the New Jersey Constitution and the United States Constitution in their separation of church and state; and pursuant to the right under the New Jersey Constitution, Article 1, paragraph 1 - the right of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness, and pursuant to the rights under the Statutes of the State of New Jersey, specifically, N.J.S. 2A:122-1 (malicious destruction of property), N.J.S. 2A:130-1 (nuisances), N.J.S. 2A:131-1 & 3 & 4 & 5 (perjury), N.J.S. 2A:135-1 & 2 (neglect of official duty), N.J.S. 2C:5-2 (conspiracy), N.J.S. 2C:12-1 & 2 & 3 (assault, endangerment, threats), N.J.S. 2C:13-5 (coercion), N.J.S. 2C:17-la (arson), N.J.S. 2C:17-3 (criminal mischief), N.J.S. 2C:18-3(b) (tresspassing), N.J.S. 2C:20-5 (extortion), N.J.S. 2C:14-4 (lewdness), discrimination due to ancestry, N.J.S. 2A:89-1 (arson), arrest (N.J.S. 2A:15-41, assault and battery, (N.J.S. 2A:90-1), bribery and corruption (N.J.S. 2A:93-1), fornication (N.J.S. 2A:8-22), fraud (N.J.S. 2A:111-1), false imprisonment 2A:85-1, fraud (N.J.S. 2A:170-42), libel, misfeasance (N.J.S. 2A:15-41), nuisances (N.J.S. 2A:130-1), perjury (N.J.S. 2A:131-4), trepass (N.J.S. 2A:170-31), and pursuant also to violations under the municipal zoning code of the City of Hackensack, dealing with nuisances,

air pollution, noise pollution, and operation of a psychiatric institutional use in a residential R-3B use district, and also pursuant to the state's laws regulation motor vehicles regarding blocking ingress and egress to property, as well as laws promulgated under the Occupational Safety and Health Administration Act regulating the operation of industrial uses, as well as municipal violatings of the operation of a light industrial use in an M-1 use district, as well as operation of a halfway house in a residential R-3B use district in the City of Hackensack, as well as operation of a funeral parlor in a neighborhood business district under the municipal zoning code, B-1, as well as operation of a nuisance boarding house at 111 Passaic Street, as well as failure to observe the common law regarding nuisances under the State of New Jersey, as well as violations under the new New Jersey Criminal Code more particularly specified as NJS 2C:21-2 (criminal simulation), NJS 2C:21-4 (falsifying records), N.J.S. 2C:21-7 (deceptive business practices), N.J.S. 2C:21-1 (commercial bribery), N.J.S. 2C:67-2 (political bribery), N.J.S. 2C:27-3 (improper political influence), N.J.S. 2C:28-1 (perjury), N.J.S. 28-2 (false swearing), N.J.S. 2C:28-5, 6, 7, (tampering), N.J.S. 2C:29-3 (hindering prosecution), N.J.S. 2C:30-2 (official misconduct), N.J.S. 2C:33-7 (obstructing highways), N.J.S. 2C:33-12 (maintaining a nuisance), N.J.S. 2C:41-1 (racketeering), and the Federal and State delegation of zoning to Hackensack.

The plaintiffs-appellants hereby appeal to the Supreme Court of the United States from the Judgment entered hereon on April 29, 1983 in the Supreme Court of New Jersey denying appellant's motion for reconsideration, subsequent to the denying of appellant's petition for certification filed by the N.J. Supreme Court on March 18, 1983, and subsequent to the rendering of the judgment by the Appellate Division of the Superior Court of New Jersey entered hereon on December 17, 1982, affirming the decision of the Chancery (equity) court of the Superior Court of New Jersey (Bergen County) dismissing the now consolidated complaints, in March, 1981.

Dated: July 18, 1983
Salvatore Moretti
390 Park Street,
Hackensack, New Jersey 07601
Telephone (201)646-1414
Pro Se Plaintiff-Appellant for ROR Construction Corporation, and Moretti Realty Realty Associates, Ltd., and Salvatore Moretti.

STATEMENT OF SERVICE

I, Salvatore Moretti, under penalty of perjury hereby declare:

I am a citizen of the United States, over 18 years of age, my home (and business address) is 390 Park Street, Hackensack New Jersey 07601; I served a copy of the attached Notice of Appeal to the Supreme Court of the United States (attached to the Jurisdictional Statement) and to the Clerk of the New Jersey Supreme Court, and to the Clerk of the Appellate Division of the New Jersey Superior Court), and to each of the following by placing same in an envelope and mailing same addressed to:

Clerk of the Supreme Court of the United States
United States Supreme Court Building
1 First Street, N.E.
Washington, D.C. 20543

Ronald Wis, Esq. (attorney for Multi-Pak Corporation)
Wolf and Samson, Esqs.
80 Main Street
West Orange, New Jersey 07052

Bruce Losche, Esq. (attorney for North Jersey Friendship House)
Losche and Losche, Esqs.
267 Summit Avenue
Hackensack, New Jersey 07601

Carolyn Kristal, Esq. (attorney for Gutterman, Musicant, Kreitzman, Inc.)
Okin, Pressler, and Shapiro, Esqs.
222 Bridge Plaza South
Fort Lee, New Jersey 07024

Stephen Moses, Esq. (for City of Hackensack)
1 Essex Street
Hackensack, New Jersey 07601

John Paolella, Esq. (for Hackensack Board of Adjustment)
26 Bridge Street
Hackensack, New Jersey 07601

Arnold Bornstein Esq. (prior owner of Multi-Pak Factory)
152 Main Street
Box 1979
Paterson, New Jersey 07509

Each said envelope was sealed and placed in the United States mails at the Hackensack Post Office on July 18, 1983, with the postage theron fully paid.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 18, 1983
Salvatore Moretti
390 Park Street
Hackensack, N.J., 07601

Sworn to and subscribed by me on July 18, 1983:

SALVATORE MORETTI
390 Park Street
Hackensack, NJ 07601
(201) 646-1414

May 14, 1983

Stephen Townsend, Esq.
Clerk of the Supreme Court of New Jersey
Office of the Clerk
CN-970
Trenton, New Jersey 08625

Re: ROR Construction Corporation v. Friendship House, Salvatore Moretti et al. v. Multi-Pak, et al., and ROR Construction Corporation v. Gutterman, Musicant, and Kreitzman, Inc. New Jersey Supreme Court Docket No. 20, 688

Dear Mr. Townsend:

On May 4, 1983, I received the order (Exhibit A) filed in the New Jersey Supreme Court, denying my petition for certification in the above captioned matter. there was no cover letter indicating that this order was transmitted to the defendants, however.

You are hereby advised, along with the Clerk of the Supreme Court of the United States and the defendants and parties listed below, that I am preparing an appeal to the United States Supreme Court.

Very truly,

SALVATORE MORETTI

enc. Order Filed May 4, 1983

cc: Clerk of the Supreme Court of the United States
United States Supreme Court Building
1 First Street, N.E.
Washington, D.C. 2054

Ronald Wiss, Esq. (Multi-Pak Corporation)
Wolf and Samson, Esqs.
80 Main Street
West Orange, New Jersey 07601

Bruce Losche, Esq. (Friendship House, Inc.)
Losche and Losche, Esqs.
267 Summit Avenue
Hackensack, New Jersey 07601

Carolyn Kristal, Esq.
(Gutterman, Musicant, Kreitman, Inc.)
Okin, Pressler, and Shapiro, Esqs.
222 Bridge Plaza South
Fort Lee, New Jersey 07024

Notification of U.S. Supreme Court Appeal, 5/14/83

Stephen Moses, Esqs. (City of Hackensack)
1 Essex Street
Hackensack, New Jersey 07601

M-798 September Term 1982
20,688

ROR CONSTRUCTION CORP.,

Plaintiff

v.

FRIENDSHIP HOUSE

Defendant

SALVATORE MORETTI, et al.,

Plaintiffs-Movants

v.

MULTI-PAK, et al.,

Defendants-Respondents.

ORDER

This matter having been duly presented to the Court, it is ORDERED that the motion for reconsideration of order denying petition for certification is denied.

WITNESS, the Honorable Robert N. Wilentz, Cheif Justice, at Trenton, this 29th day of April, 1983.

Stephen W. Tounsend
CLERK

Supreme Court of New Jersey

C-360 September Term 1982
20,688

ROR CONSTRUCTION CORP.,etc.
Plaintiff-Petitioner,

v

FRIENDSHIP HOUSE, etc., et el.,
Defendants-Respondents.

SALVATORE MORETT, et el.,
Plaintiffs-Petitioners

v.

MULTI-PAK Corporation, etc., et el.,
Defendants-Respondents.

ROR Construction Corporation, etc.,
Plaintiff-Petitioner,

v.

GUTTERMAN, MUSICANT & KEITZMAN, INC., etc.,
Defendant-Respondent.

ON PETITION FOR CERTIFICATION

To the Appellate Division, Superior Court:

A petition for certification of the judgement in A-3801-80TL, A-3806-80TL, A-3797-80TL having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied with costs.

WITNESS, the Honorable Robert L. Clifford, presiding Justice, at Trenton, this 15th day of March, 1983.

Stephen W. Townsend
CLERK

Supreme Court of New Jersey

M-535 September Term 1982
20,688

ROR CONSTRUCTION CORP.,etc.

Plaintiff,

v

FRIENDSHIP HOUSE, etc., et el.,

Defendants

SALVATORE MORETTI, et el.,

Plaintiffs-Movants

v.

MULTI-PAK Corporation, etc., et el.,

Defendants-Respondents.

ROR Constructiln Corporation, etc.,

Plaintiff

v.

GUTTERMAN, MUSICANT & KEITZMAN, INC., etc.,

Defendant

ORDER

This matter having been duly presented to the Court, it is ORDERED that the MOTION for extention of time to file notice of petition for certification is granted.

WITNESS, the Honorable Robert L. Clifford, presiding Justice, at Trenton, this 15th day of March, 1983.

Stephen W. Townsend
CLERK

Supreme Court of New Jersey

M-346 September Term 1982
20,688

ROR CONSTRUCTION CORP.,etc.

Plaintiff,

v

FRIENDSHIP HOUSE, etc., et el.,

Defendants.

SALVATORE MORETT, et el.,

Plaintiffs-Movants

v.

MULTI-PAK CORPORATION, etc., et el.,

Defendants - Respondents.

ROR Construction Corporation, etc.,

Plaintiff,

v.

GUTTERMAN, MUSICANT & KEITZMAN, INC., etc.,

Defendant.

ORDER

This matter having been duly presented to the Court, it is ORDERED that the motion for leave to file pro se on behalf of ROR Construction Corporation and Moretti Reality Associates, Ltd. is granted.

WITNESS, the Honorable Robert L. Clifford, presiding Justice, at Trenton, this 15th day of March, 1983.

Stephen W. Townsend
CLERK

Supreme Court of New Jersey

Appellate Division

A-3801-80TL
A-3797-80TL
A-3806-80TL

ROR CONSTRUCTION CORPORATION, A Corporation of the State of New Jersey,

Plaintiff-Appellant,

v

FRIENDSHIP HOUSE,A Corporation of the State of New Jersey, City of Hackensack, A Municipal Corporation of the State of New Jersey, and Gutterman, Musicant and Kreitzman, Inc., A Corporation of the State of New Jersey,

Defendants-Respondents.

SALVATORE MORETT, and ROR CONSTRUCTION CORPORATION, A Corporation of the State of New Jersey,

Plaintiffs-Appellants,

v.

MULTI-PAK CORPORATION, A New Jersey Corporation and The City of Hackensack,

Defendants-Respondents.

ROR CONSTRUCTION CORPORATION, A Corporation of the State of New Jersey,

Plaintiff-Appellant,

v.

GUTTERMAN, MUSICANT & KEITZMAN, INC., A Corporation of the State of New Jersey,

Defendant-Respondent.

Appellate Division Decision entered December 17, 1982

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE COMMITTEE ON OPINIONS

Argued November 30, 1982 - Decided Before Judges Polow and Brody.

On appeal from Superior Court of New Jersey, Chancery Division, Bergen County.

Edward R. Evans argued the cause for appellant ROR Construction Corporation.

Salvatore Moretti argued the cause pro se.

Ronald E. Wiss argued the cause for respondent Multi-Pak Corp. (Kimmelman, Wolff and Samson, attorneys; Mr. Wiss on the brief).

Carolyn R. Kristal argued the cause for respondent Gutterman, Musicant and Kreitzman, Inc. (Okin, Pressler and Shapiro, attorneys; Ms. Kristal on the brief).

No appearance on behalf of respondent Friendship House.

PER CURIAM

The ROR Construction Corporation (ROR) brought three separate actions against neighbors of a multi-family building it owned in Hackensack. In each action, ROR asserts that the neighbor's use of its property constituted a nuisance. Defendant Friendship House operated a psychiatric rehabilitation center. Defendant Gutterman, Musicant and Kreitzman, Inc. operated a funeral home. Defendant Multi-Pak Corporation operated a factory where garbage compactors were manufactured. ROR joined the City of Hackensack as a party for allegedly failing to respond adequately to plaintiff's complaint of the alleged nuisances. Salvatore Moretti, the sole stockholder of ROR, joined with his corporation as a plaintiff in the action against Multi-Pak Corporation.

The three actions were consolidated for trial and tried without a jury. The judge found that the conduct of none of the defendants constituted a nuisance. This issue is factual. We af-

firm substantially for the reasons given by Judge Petrella in his oral opinion of March 18, 1981 for which there exists adequate evidential support. R.2:11-3(e) (1) (A). We have considered plaintiff's other arguments regarding the correctness of rulings on certain pretrial motions and alleged errors in the conduct of the trial. Some of these issues have been rendered moot by our disposition of the nuisance issue and the others are clearly without merit. R.2:11-3(e) (1) (E).

Affirmed.

Elizabeth McLaughlin
CLERK

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-2541-78

SALVATORE MORETTI, et al.

Plaintiff,

vs.

MULTI-PAK CORPORATION, et al.

Defendant,

[Filed March 27, 1981]

JUDGEMENT

This matter having been tried without a jury before the Honorable James J. Petrella on March 16, 17 and 18, 1981 by Edward R. Evans, attorney for the plaintiffs, and by Kimmelman, Wolff & Samson (Ronald E. Wiss, Esq. appearing), attorneys for defendant Multi-Pak Corporation, and the Court having rendered an oral decision on March 18, 1981, after having heard the testimony and considered the evidence, and good cause appearing;

IT IS this 27th day of March, 1981:

ORDERED that judgment is entered in favor of defendant Multi-Pak Corporation and against plaintiffs Salvatore Moretti and ROR Construction Corporation, jointly and severally, dismissing the complaint with prejudice and with costs.

James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-4640-78

ROR CONSTRUCTION CORPORATION, a Corporation of the State of New Jersey

Plaintiff,

and

FRIENDSHIP HOUSE, A Corporation of the State of New Jersey, et al

Defendant,

[Filed March 30, 1981]

JUDGEMENT

This matter having been tried before this Court upon plenary trial on March 16, 17 and 18, 1981, and the Court having heard and considered testimony and proof submitted by the respective parties hereto, and rendered a determination of fact and law with respect thereto on the record on March 18, 1981, which record is incorporated by reference hereby as if set forth herein at length;

IT IS ON THIS 30th day of March, 1981,

ORDERED that the encaptioned complaints of ROR Construction Corporation, against the defendant, Friendship House, be, and hereby are, dismissed with prejudice in all respects; and

IT IS FURTHER ORDERED that final judgment in the encaptioned suits be, and hereby are, entered in favor of the said defendant, Friendship House, and against the plaintiff, ROR construction corporation; and

IT IS FURTHER ORDERED that costs of suit shall be, and hereby are, taxed upon the plaintiff, ROR Construction Corporation which shall pay the same in accordance with law.

James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-545-79

ROR CONSTRUCTION CORPORATION, a corporation of the State of New Jersey

Plaintiff,

vs.

GUTTERMAN-MUSICANT-KREITZMAN, INC., a corporation of the State of New Jersey

Defendant,

ROR CONSTRUCTION CORPORATION, a corporation of the State of New Jersey

Plaintiff

vs.

FRIENDSHIP HOUSE, et at

Defendants

[Filed March 27, 1981]

ORDER FOR FINAL JUDGEMENT

This matter having been tried before this Court upon plenary trial on March 16, 17 and 18, 1981, and the Court having heard and considered testimony and proof submitted by the respective parties hereto, and rendered a determination of fact and law with respect thereto on the record on March 18, 1981, which record is incorporated by reference hereby as if set forth herein at length;

IT IS ON THIS 27th day of March 1981,

ORDERED, that the encaptioned complaints of ROR Construction Corporation, against the defendant, Gutterman-Musicant-Kreitzman, Inc. be, and they hereby are, dismissed with prejudice in all respects; and it is further

ORDERED, that final judgment in the encaptioned suits be, and hereby are, entered in favor of the said defendant, Gutterman-Musicant-Kreitzman, Inc., and against the plaintiff, ROR Construction corporation; and it is further

ORDERED, that costs of suit shall be, and hereby are, taxed upon the plaintiff, ROR Construction Corporation, which shall pay the same in achordance with law.

James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-4640-78

ROR CONSTRUCTION CORPORATION,
a Corporation of the State of New Jersey

Plaintiff,

vs.

FRIENDSHIP HOUSE, a Corporation
of the State of New Jersey,
City of hackensack, a Municipal Corporation
of the State of New Jersey,
and Gutterman-Musicant-Kreitzman, Inc.,
a Corporation of the State of New Jersey,

Defendants

[Filed March 6, 1981]

JUDGEMENT

This matter having been opened to the Court by Salvatore Moretti, Pro Se, and no one appearing in opposition, and the Hon. James J. Petrella having heard the oral argument of Salvatore Moretti on February 13, 1981, and upon reading the papers submitted, and for the reasons stated in the Court's decision,

IT IS ON THIS 6th day of March, 1981 ordered that the application of Salvatore Moretti to intervene in the above captioned action be and hereby is denied.

Hon. James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-4640-78

ROR CONSTRUCTION CORPORATION,
a Corporation of the State of New Jersey

Plaintiff,

vs.

FRIENDSHIP HOUSE, a Corporation
of the State of New Jersey,
City of Hackensack, a Municipal Corporation
of the State of New Jersey,
and Gutterman-Musicant-Kreitzman, Inc.,
a Corporation of the State of New Jersey,

Defendant

[Filed September 24, 1980]

ORDER

This matter having been opened to the Court by Stephen J. Moses, Esq., attorney for defendant, City of Hackensack, Menelaos W. Toskos, Esq. appearing, on notice to Edward R. Evans, Esq., attorney for plaintiff, Bruce H. Losche, Esq., attorney for defendant Friendship House, and Kenneth H. Mack, Esq., attorney for defendant Gutterman, Musicant & Kreitzman, Inc., and Edward R. Evans, Esq. appearing in opposition to the motion of defendant, City of Hackensack, for summary judgment, and the Court having read the moving papers, heard the argument of counsel, and for good cause shown,

IT IS ON THIS 24th day of September, 1980,

ORDERED that Summary Judgment is granted in favor of defendant, City of Hackensack, and that the claims and crossclaims against said defendant are hereby dismissed; and

IT IS FURTHER ORDERED that a copy of this Order be served on the attorneys for plaintiff and co-defendants within sever (7) days.

James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-545-79

ROR CONSTRUCTION CORPORATION,
a Corporation of the State of New Jersey

Plaintiff,

vs.

GUTTERMAN-MUSICANT-KREITZMAN, INC.,
a Corporation of the State of New Jersey,

Defendant

[Filed March 6, 1981]

ORDER

This matter having been opened to the Court by Salvatore Moretti, Pro Se, and no one appearing in opposition, and no papers filed in opposition, and the Hon. James J. Petrella having heard oral argument of Salvatore Moretti on February 13, 1981, and upon reading the papers submitted, and for the reasons stated in the Court's decision,

IT IS ON THIS 6th day of March, 1981, ordered that the application of Salvatore Moretti to intervene in this action be and hereby is denied.

Hon. James J. Petrella, J.S.C.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-2541-78

SALVATORE MORETTI, et al.

Plaintiff,

vs.

MULTI-PAK CORPORATION, et al.

Defendant

[Filed November 5, 1980]

ORDER DENYING ADVISORY JURY

This matter having been opened to the Court on October 24, 1980 by Edward R. Evans, attorney for the plaintiffs, in the presence of Kimmelman, Wolff & Samson (Ronald E. Wiss appearing), attorneys for defendant Multi-Pak Corporation, upon an application for an order permitting the appointment of a advisory jury pursuant to Rule 4:35-2, and the Court having considered the certification of Salvatore Moretti and having heard argument of counsel, and good cause appearing;

IT IS ON THIS 3rd day of November, 1980,

ORDERED that the application by the plaintiffs for the appointment of an advisary jury for the Trial of all issues is denied.

James J. Petrella, J.S.C.

SUPERIOR COURT OF

NEW JERSEY
CHANCERY DIVISION BERGEN COUNTY

Civil Action No. C-2541-78

SALVATORE MORETTI and ROR CONSTRUCTION CORPORATION, a New Jersey Corporation,

Plaintiff

vs.

MULTI-PAK CORPORATION, a New Jersey Corporation, and THE CITY OF HACKENSACK.

Defendants

[Filed February 24, 1980]

ORDER GRANTING SUMMARY JUDGMENT

This matter having been opened to the Court by Stephen J. Moses, Esq., attorney for defendant, City of Hackensack, Menelaos W. Toskos, Esq. appearing, on notice to Edward R. Evans, Esq., attorney for plaintiff, and Ronald E. Wiss, Esq., attorney for defendant, Multi-Pak Corporation, and Edward R. Evans, Esq. appearing in opposition to the motion of defendant, City of Hackensack, for summary judgment, and the Court having read the moving papers, heard the argument of counsel, and for good cause shown,

IT IS ON THIS 24th day of September, 1980,

ORDERED that plaintiff's demand for trial by jury is hereby stricken; and

IT IS FURTHER ORDERED that summary judgment is granted in favor of defendant, City of Hackensack, and the claims and crossclaims against said defendant are hereby dismissed; and

IT IS FURTHER ORDERED that a copy of this Order be served upon the attorneys for plaintiff and co-defendants within seven (7) days.

James J. Petrella, J.S.C.

ORAL DECISION

THE COURT: All right, gentleman, I have, of course, during the course of the intervals between the trial, I have gone over all the testimony, all of the evidence, the documents, considered the slides and the tapes.

I want to initially compliment counsel for your respective presentation of your cases on behalf of your respective clients.

I also want to compliment counsel for the briefs that have been submitted and for the argumennt with respect to this matter.

As I said, I have considered all of the evidence, the documents and the testimony that has been submitted to this Court. I have also taken into account and considered applicable law with respect to the subject matters of the complaints, and there are three complaints.

The first complaint filed in order of time is the matter Moretti and ROR Construction Corp. versus Multi-Pak Corporation; the second is ROR Construction Corporation versus Friendship House, et al., and the third one, which includes, by the way, Gutterman, Musicant & Kreitzman, Inc., and the third is ROR Construction Corporation versus Gutterman, Musicant & Kreitzman, Incorporated.

I have taken into account the applicable law with respect to the various claims in the complaint.

Essentially, this is a matter involving claims of nuisance and certain activities which have been the subject of the testimony and the exhibits and the documents that have been submitted to the Court, and of course I have had this case many times on motions during the pendency of the matter.

I have taken into account not only the law that has been set forth in the briefs and the argument, but also, of course, the unusual law with respect to a fact-finder's determinations, and particularly with respect to burden of proof and the criteria that is involved with respect to that.

There are significant aspects of this case which involve the factual disputes and credibility. In that respect, of course, I have observed the witnesses, the demeanor, their willingness or reluctance to answer, the consistency of the answers and testimony as a whole, the vagueness, sometimes evasiveness of some of the answers, the responsiveness of the answers and so forth.

I have also considered parts of the deposition testimony that have been offered and that I have taken into account.

I have also taken into account as is appropriate and as is proper under our law the interest that each may have in the outcome of the case. I am talking about witnesses connected with parties who are involved in this particular litigation.

Now, there is obviously before me the zoning map of Hackensack, which is J-1 in evidence. The general area has been outlined in red on that particular document. It appears also from P-23 in evidence, which is on the board, the rough location of the buildings involved here, essentially in that drawing are the buildings located at 391 and 397 Park Street, Hackensack, to what I will just refer to as the southerly side of that, 387 Park Street, which has been referred to from time to time as the location of what was then called, since it is no longer occupied by that establishment, what was called "Friendship House."

On the northerly side, on that corner of Passaic Street and Park Street, there is the parking lot for Gutterman, Musicant & Kreitzman on the west and behind there is the Multi-Pak Corporation building which, I believe, is Number 400 or thereabouts of Railroad Avenue — 402 or 400 Railroad Avenue — the railroad being on the other side of that; across the street

from the apartments on Park Street is the Gutterman, Musicant & Kreitzman funeral parlor. I have heard the description of that, I have seen the photographs of the general area. I have also considered the slides and to the southerly side of that is the intersection of Park Street and Berry Street in Hackensack.

I have before me the zoning map.

I have also heard testimony, I can take judicial notice, since I have seen the zoning ordinances as well as to the properties involved here. We have the plaintiff's property being located in an R-3B medium density multiple-family residential and office zone. We have the property of Multi-Pak Corporation located in the M-1 manufacturing zone. The permitted uses, of course, are all as set forth in the zoning ordinance. The property of the funeral home is also located in that R-3B zone and that is, of course, across the street from Park Street with the uses, and I am also aware and have in evidence the variance application and so forth. I am aware of that and I have taken all of that into account.

I have also heard the testimony of the individual who is a real estate appraiser as to the status of Passaic Street, Park Street and the vicinity in excess of forty years as to its uses, and I will refer to that generally as well.

It is obvious that the building, although not in exactly the same precise form of Multi-Pak has been there for a number of years, engaging certainly in recent times in the operation of preparing these and fabricating so-called "garbage compactors," and I have heard the testimony as to the activities that have gone on there.

The plaintiff corporation, with its principal, who is also an individual plaintiff in one case, constructed in or about and over the period perhaps 1956 to 1958 the two apartment buildings, each of which have ten units. They essentially are three-room apartments with window air conditioners. I am aware that there are no windows on either the easterly or westerly ends of the

building as such. From what I can see in any slides and photographs that are in evidence, it does not appear that there are any windows or openings on those sides.

The Gutterman, Musicant premises is essentially, although not precisely, across the street. I could tell it is somewhat off the diagram P-23 by comparing the photographs and the slides to the extent that they are available.

I have heard the testimony as to the operation of the premises of Multi-Pak and what type of work goes on there.

I have, of course, considered the tapes as well which, by the way, I played on two different-sized tape recorders because I wanted to check the clarity and the sound levels, and it is obvious, by the way, at the very low volumes (meaning the low settings on the Lanier-type dictaphone) that it took past the middle setting before the sounds were really audible beyond the conversational level and it took -- at the highest levels I heard excessive rushing through the microphone speakers and so forth and, of course, these are common devices today, tape recorders, but I have considered all of those things.

In considering all of the evidence, as I said, I am aware that the Multi-Pak building is and had been in that location, although there have been some modifications over the years, for a considerable period of time. Certainly at or about the erection of the two apartment buildings which are owned by the palintiff or plaintiffs in this case or cases, I should say.

In any event, as I have said, Multi-Pak has been there since at least 1956 and that building, certainly the rear cement or cinderblock wall has been there. The question of open or closed windows, I find that they are obviously opened at times during the summer. In any event, I am not going to get into all of the details. I am reserving my right under the rules to supplement.

I have considered as well, and I might say parenthetically the absence of certain proofs in the case.

In any event, I have also taken into account all of the factors that a finder of facts normally takes into account, including the feel of the case, especially from hearing and observing the witnesses on the stand, seeing their expressions, observing what transpired, observing the evasiveness, sometimes the volunteering which was on occasions excessive, the hesitant and quizzical nature, the disjointed and nonresponsive answers as well as the entire courtroom atmosphere, all of which a cold transcript conveys with rarity.

I am reserving the right to supplement my findings and conclusions in accordance with the rules of Court.

Credibility, of course, is an extremely significant issue in this case. Where the testimony is in conflict with my findings, I obviously did not accept or believe that testimony.

I have set forth already certain findings as to Multi-Pak.

I will just state for the record at this point the location of Friendship House again, or what was characterized and described as that at 387 Park Street, that is essentially what looks to me like an old, perhaps, colonial-type frame-type building, although I do not have to find that, I am just describing it. I heard the testimony about it, established there in or around 1974-75 (the exact date is not before me and is not essential) and it ceased operation as such in February of 1980. I have heard testimony, conflicting versions as to what happened there and I am aware of those problems and I am aware of the testimony.

I have heard the testimony as to the Gutterman,Musicant & Kreitzman funeral home. I have seen the photographs of the funeral processions that were on the street, on Park Street, facing in a southerly direction along, if you will, the west side of Park Street, and I am aware of all of that, including I have taken into account the sequence of the photographs and so on.

Now, with respect to the claims of nuisance, I have taken into account, of course, the law of nuisance, as I have indicated, including the cases cited by counsel and that includes the case of *Sands v. Ramsey Golf and Country Club, 29 New Jersey 438, 1959.* I have also considered *Malhams v. Demarest Borough, 152 New Jersey Super,* page 48, as well as the rest of the cases that have been brought to the Court's attention.

Of course, there were periods over the years which various tests were made with respect to Multi-Pak Corporation and as to the sounds. It appears that it was only on a few instances there was a question of being over the so-called "tolerance" and code level established by governmental authorities. I am unable to find that the plaintiff has carried his burden of proof to any degree as to violation of the sound levels either during the day or past the ten p.m. at night.

Likewise, I am unable to find any credible testimony as to any violations of odors or any obnoxious or objectional odors emanating from that facility, and I am unable to find there is any vibration that is attributable to them that in any way affects the apartment buildings that are involved here. Even if I applied a subject test, as has been argued in the briefs and in the oral argument, then there has to be a reasonableness of use as to reasonable persons. Obviously, of course, I recognize that each facility here is located in a zone which allows the particular use involved. That in and of itself would not excuse somebody from an excessive use that would intrude. However, with respect to Multi-Pak Corporation and the testimony that I have heard, considering the operation and recognizing that there has been no violation of any zoning ordinance found, no health ordinance violation found, no OSHA violation with respect to the types of complaints before the Court or anything that would give rise to a nuisance, the plaintiff has utterly failed as to the burden of proof in that particular instance.

As to the other case and the defendant Friendship House,I have heard testimony of what purports to be various instances over the years as to certain things that transpired in the house, and it is obvious there were disputes between Mr. Moretti and some of the occupants in that particular house, but sometimes neighbors cannot live together although they should, and countries and peoples and nations should live together, and it is very difficult. It is also obvious that this area was a business, commercial and residential, multi-family zoned areas,multi-uses. It also contains some single-family, what appear to be single-family residences. Today we never know how many people could be living in those single-family dwellings, but the drawing of boundaries is obviously a legislative function. This Court does not and will not substitute its judgment as to what should be built where or what the zoning should be in a particular case.

As I said, merely because permissible uses under the zoning ordinance are there in and of itself is not determinative, but I have taken that into account.

I have also considered the location and use of the funeral home, the fact that there was another funeral home there, funeral homes in the area, the other uses and recognizing I have heard the length of time for funerals and that the use is transient, I can find that the activities that are conducted by Gutterman, Musicant & Kreitzman do not present any unreasonable use, nor do they rise in any way to the status of a nuisance. There is absolutely no basis whatsoever for the claim of a nuisance as to that, nor do I find that there has been any excessive, or any displaying of bodies or leaving of bodies in a driveway. Obviously, I do not accept or believe any contrary testimony, and I find it totally incredible.

I have been aware also that notwithstanding these claims as to all of these defendants, I am talking about Friendship House, Gutterman, Musicant & Kreitzman and Multi-Pak, not only has the plaintiff failed to carry the burden of proof by any measure, but the plaintiff has bought a house in the area virtually adjacent to the funeral home. He did that in the face of his claims.

There is absolutely no basis for a claim of nuisance as to any of the areas in this vicinity around any of those buildings.

I find, as I say, that the uses that are there not only are permissible but they have been acting and utilized in a reasonable manner; that the activities that are conducted within all of them are within reason. I find that the allegations as to the activities that occurred in Friendship House are merely allegations, unsupported, unfounded, and, if anything, they are merely isolated and could not give rise to a nuisance, might give rise if it existed -- and I cannot find that it did -- to a complaint in one instance or more, but that is all, and I certainly do not find any basis on which I could find anything occurred.

Frankly, some of the testimony as to how it could be seen and how long it would be observed is totally incredible to the Court.

In any event, and in the alternative, not only has the plaintiff failed to prove any basis for any cause of action in any of these suits, has not proved damages at all. I think what I heard was totally speculative, may have been self-inflicted by the erection of dwellings in the area where it was erected. The vacancy rate appears, and the Court finds to have been normal. It seems at maximum or near maximum rentals as under the rent control ordinance have been imposed and collected, and in any event the plaintiff is not entitled to any damages under any circumstances.

For all of those reasons, reserving the right to supplement, I am entering judgment dismissing all of the complaints with prejudice and with costs, and I am returning all of the exhibits to counsel, and counsel will please go through them make sure you have them all and acknowledge receipt on the record, and counsel can submit appropriate orders.

MR. MACK: Your Honor, since you reserved already the right to supplement in the beginning, I think you reserved to the zone Gutterman, Musicant was in as an R-3B zone. I think it is a B-1 zone.

THE COURT: Whatever it is, let me correct it.

I think you are right, if I said it.

All right, you are correct, the record will be corrected accordingly.

MR. EVANS: I can also indicate to the Court, I spoke to Judge Botter's chambers this afternoon, and was informed that the motion for leave to appeal filed by Mr. Moretti pro se has been decided by the full part and has been denied.

THE COURT: Thank you, gentlemen. Good day.

MR. WISS: I have received D-1MP in evidence, which was the only piece of evidence.

(Mr. Mack acknowledged receipt of his exhibits.)

MR. EVANS: We acknowledge – I acknowledge we have all of the exhibits. There is one exhibit missing, P-30FH marked in evidence. It is a letter of ROR Construction Corporation to Hackensack City Hall, dated November 11, 1977. Plaintiff has all other exhibits.

CERTIFICATE

I, RICHARD M. JENNINGS, an official Court Reporter of the State of New Jersey, do hereby certify the foregoing to be a true and accurate transcript.

Richard M. Jennings, C.S.R.
Official Court Reporter

Salvatore Moretti
390 Park Street
Hackensack, NJ 07601
(201)-646-1414

April 23, 1983

Stephen Townsend, Esq.
Clerk of the Supreme Court
Office of the Clerk
CN-970
Trenton, New Jersey 08625

Re: ROR CONSTRUCTION CORPORATION, ETC. ET AL., V. FRIENDSHIP HOUSE, ETC., ET AL.,
DOCKET NO. 20,682

Dear Mr. Townsend:

By letter of April 11, 1983 I transmitted my payment of $5.00 to you as my filing fee for the motion for reconsideration in the above matter.

I have not received word from you as to the disposition of this matter, and I am sending this letter (and a carbon copy to the defendants' attorneys named below) to apprise the parties to the fact that my time to appeal from the decision denying my petition for certification to the New Jersey Supreme Court has not run. They should be on notice that if the New Jersey Supreme Court denies my petition for certification, I will appeal to the United States Supreme Court.

The refusal of the trial court to seriously consider my rights in this litigation typifies the social and cultural oppression which the defendants' actions represent in Hackensack. Smart lawyers cannot cloud my mind as to the invasion of my rights and liberties as guaranteed by the United States Constitution and the New Jersey Constitution.

My civil rights as guaranteed under 42 U.S.C.A. 1983 have been violated, and the defendants have operated in con-

spiratorial unison to deprive me of even legal representation. My former attorney, Robert Hollis, Esq. has been suspended from the practice of law. My other attorney, Edward Evans, could not even discuss with me the cause of action within and was reduced to being a secretary filing a jumble of papers which do not present the grave issues herein.

The Gutterman, Musicant, Kreitzman Jewish Funeral Home should not be allowed to hide behind a shield of the Jewish religion in order to deprive me of my rights. Their purchase of land through a dummy corporation, and their threats of political influence do not deter me. Although I have been damaged many millions of dollars by the tactics of these men who parade themselves as a religion, it is I who have a stake in preserving religious values in this neighborhood.

The number of lawsuits which have been entailed to present the truth to the New Jersey Supreme Court have entailed a legal malpractice case (against Hollis and Pessin), an appellate division tax appeal opposed by the Jewish lawyer, Gittleman, a theft civil and criminal case instituted by Lefkowitz when I tried to duplicate materials for the Supreme Court, and a professional malpractice case when my own "Expert" Galofaro refused to even enter the Multi-Pak plant. Who would want to live in a neighborhood where he would have to live under these conditions of social and cultural oppression, legal intrigue and municipal intransigence, and business and personal isolation, for a period of many years? Not only are the rights of the people of Hackensack at stake, but the rights of all free people who are victimized by the self-styled elite which has undercut the constitution of this state and this country in order to manufacture for themselves a neighborhood suitable to their own personal use.

Very truly,

SALVATORE MORETTI, PRO SE

Certified Mail
P254 121 253, RRR

enc. April 11, 1983 transmittal letter to clerk of the Supreme

Court of filing fee, together with a copy of the April 7, 1983 letter from the Clerk with regard to a motion for reconsideration.

cc: Appellate Division of the Superior Court
Ronald Wiss, Esq. (Multi-Pak)
Bruce Losche Esq. (Friendship House)
Carolyn Kristal, Esq. (Gutterman, Musicant, and Kreitzman)
Stephen Moses, Esq. (City of Hackensack)

Salvatore Moretti
390 Park Street
Hackensack, NJ 07601
(201)646-1414

April 11, 1983

Stephen Townsend, Esq.
Clerk of the Supreme Court
Office of the Clerk
CN-970
Trenton, New Jersey 08625

Re: ROR CONSTRUCTION CORPORATION, ETC., ET AL.V. FRIENDSHIP HOUSE., ETC., ET AL.
DOCKET NO. 20,682

Dear Mr. Townsend:

Pursuant to your letter dated April 7, 1983, enclosed find my check in payment of the filing fee for the motion for reconsideration in the above captioned matter.

Very truly,

SALVATORE MORETTI

enc: Check No. 4919
Notice Dated April 7, 1983

SUPREME COURT OF NEW JERSEY

Stephen W. Townsend
Clerk

April 7, 1983

Mr. Salvatore Moretti
390 Park Street
Hackensack, NJ 07601

RE: ROR CONSTRUCTION CORPORATION, ETC., ET AL. V. FRIENDSHIP HOUSE, ETC., ET AL. (#20,682)

Dear Mr. Moretti:

This will acknowledge receipt of your letter of April 4, 1983 regarding the above case. We will treat your letter as a motion for reconsideration of the Supreme Court's denial of the petition for certification.

Please forward a check in the amount of $5, which will serve as your filing fee for that application.

Very truly yours,

Stephen W. Townsend

SWT:dld

Salvatore Moretti
390 Park Street
Hackensack, NJ 07601
(201)646-1414

April 4, 1983

Clerk of the Supreme Court
Supreme Court of New Jersey
Hughes Justice Complex CN-970
Trenton, New Jersey 08625

Re: ROR CONSTRUCTION CORPORATION, ET. AL, V. FRIENDSHIP HOUSE, ET. AL.; SALVATORE MORETTI ET. AL. V. MULTI-PAK ET. AL., AND ROR CONSTURCTION CORPORATION V. GUTTERMAN, MUSICANT, AND KREITZMAN, ET. AL., SUPREME COURT DOCKET NO. 20,688

HONORABLE MEMBERS OF THE SUPREME COURT:

I am in receipt of the Order entered on March 15, 1983 in the above captioned matter. I find the court's refusal to grant my petition for certification startling, considering the gravity of the law suits which have been consolidated and brought to the highest court of this state.

In keeping with the dastardly acts described by my letters entered into evidence at the Chancery trial in March, 1980, I was harassed continuosly in the months prior to the deadline for filing my petition for certification with the Supreme Court. Prominent among those who harassed me were a company which has gained the support of Alan Musicant of the Gutterman, Musicant, Kreitzman Funeral Parlor, subject of this lawsuit. The company referred to, the Jademar Industrial Corporation, has subjected me to numerous incidents which have resulted in office delays. Examples of acts of sabotage which have occurred were the blocking of my driveway for one day, the damaging of

my driveway in the amount of four hundred dollars, numerous threatening phone calls, etc. Incidentally, Jademar received it's variance from Judge Harvey Smith, a frequent invitee of the Jewish funeral home, Gutterman, Musicant, and Kreitzman. I have seen Judge Smith attend the funeral parlor frequently with Melivin Gittleman, Esq., who handled the City of Hackensack's tax appeal in my case.

In order to present the Supreme Court with the record below, I had to purchase an automatic document feeder for use in conjunction with my Sharp copier. G.A.P. Sales offered such a machine and offered their services for repairs as well. It was as a result of G.A.P. that a defective document feeder was delivered to my office, and also that my copier was tampered with resulting in my copier's mal-functioning over a period of several months. G.A.P.'s malice was so great, that they filed civil and criminal complaints against me, and I was arrested by the Hackensack Police Department and placed in jail, just prior to the deadline for my petition for certification to the Supreme Court, but considering that the defendants have been so influential in this community, it should be understood that my rights of appeal are not thereby impaired.

I am amazed that the Supreme Court could deny my petition for certification, considering that it has suspended my former attorney, Robert Hollis Esq. due to his gross malpractice in handling the within litigation. In fact, I have just finished a trial in the law division before Judge Leo Yanoff, J.S.C., the prominent Jewish leader from Essex County. Judge Yanoff began the trial by having me handcuffed and placed in a cell. After I presented a flawless case to the jury, Judge Yanoff, on technical grounds, dismissed all counts of the complaint.

I have also just filed an appeal to the Appellate Division from the Tax Court of New Jersey, since I was forced to file various appeals due to the external diseconomies caused by the neighborhood land uses subject of this nuisance lawsuit which I am seeking certification of to the Supreme Court.

It is clear that the defendants' actions in this litigation have subjected me to severe economic pressures, and that my constitutional rights have been impaired. Those federal constitutional rights are made applicable to the states through the fourteenth amendment to the U.S. Constitution. I have been discriminated against by the City of Hackensack, which has overly assessed me, not taking into account the problems caused by the defendants herein. The entanglement between the funeral parlor and the City of Hackensack has been great. The Jewish group that attends the funeral parlor has turned this neighborhood into a real Hell's Kitchen, in order to get their way.

The constitution provides in the first amendment that there shall be no entanglement to excess between government and religion. In the subject litigation, the Jewish funeral parlor has been granted favors far beyond those normally allowed under the normal church-state separation required. Trial court judges such as Bergen County's prerogative writ judge, Harvey Smith have seen no conflict between attending a funeral one day and granting Jademar Industrial Corporation a variance the next day to build adjacent to the funeral home's property.

When the funeral parlor rented 387 Park Street to the North Jersey Friendship House (defendant within), it never even applied to the zoning board to operate a psychiatric halfway house at the property adjacent to my apartment house. When I went to the zoning board, they stated that the matter was outside of their jurisdiction (incredible, the property is located in Hackensack).

When I complained to the Police about the nuisance emanating from 111 Passaic Street, they refused to respond. The property was adjacent to the funeral parking lot, 65 feet from my apartment house. The house burned down on March 10, 1978. The house was demolished shortly thereafter, and was to be used for expanded funeral parking. The owner, Hyman Chait, is a Jewish man from Teaneck. He owned two other

homes on Park Street. I will not detail what occurred at those two homes, for reasons which should become obvious in the near future.

My first amendment rights have been taken from me. I am unable to petition government for the redress of my grievances. I am unable to speak at counsel meetings, since I was physically removed from the speaker's stand when I attempted to do so. I have been deprived of legal representation, i.e. my former lawyer committed legal malpractice.

The entanglement between the funeral parlor, and the other defendants, and the City of Hackensack and the state court system, has resulted in the impairment of my property rights, and my right to earn a living, and to conduct my life. I have even seen the chief justice of the New Jersey Supreme Court, which I am now appealing to, attending a funeral at the funeral home. I have frequently seen Senator Matthew Feldman there, who was on the board of directors of the psychiatric halfway house adjacent to me, along with former Hackensack Mayor Wysocki. The entanglement between church and state and this litigation is so overwhelming, as to cause me to wonder how the Supreme Court could have failed to heed my appeal and grant certification in this case. The letters which were presented to the Chancery Court Judge Petrella in March, 1980, set forth an un-American neighborhood, and yet he simply ignored me, finding my "demanor" questionable. Under these circumstances, I find it difficult to continue my belief in the system of justice we have here in New Jersey.

The Multi-Pak factory was owned by Arnold Bornstein, Esq., a Jewish lawyer from Paterson. He subsequent to the Chancery trial sold the factory to Multi-Pak, with the assistance of the Economic Development Administration. The involvement of the State of New Jersey in this case is clear.

The legal maneuvers I have been subjected to for the past eight years have been relentless. I have appeared in court about fifty times a year, just with regard to my twenty unit apartment

house. I have to work fourteen hours a day to operate my property. I have had to become a paralegal and attend lawschool to comprehend all of the maneuvers which have been thrown at me. The trial court judges have apparently been under great pressure in this litigation, and I expected that the Appellate Courts would provide the protection so clearly needed in my case. Now, I am once again disappointed by the refusal of the New Jersey Supreme Court to grant my petition for certification.

I have been repeatedly deprived of my rights to procedural and substantive due process, guaranteed under the federal constitution. I have been deprived of my right to own property, as provided under the Constitution of the State of New Jersey. That constitution provides under Article I as follows:

> All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, Of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

Needless to say, from reading this letter and from reading the transcript of the Chancery trial, and from reading my letters submitted into evidence in the Chancery Court, such rights are a dream. From reading my careful and detailed description of my neighborhood (I hold a degree in psychology, from George Washington University, and I studied real estate appraising with the society of Real Estate Appraisers, and I have studied philosophy and religion extensively, as well as law) there has been an attempt to totally annihilate human rights as guaranteed by the constituition of New Jersey and of the United States.

The equal protection of the laws requires that my rights to a residential use district be protected, as well as the rights of the Jewish funeral parlor, and its friends. In the subject appeal, the facts prove that I have not be accorded those rights guaranteed under the constitution, and I have appealed and spent a great deal of money in order to bring this case to the Supreme Court.

I expect that the court is required to do what it has been created to do, to uphold the laws of this state, and of the federal constitution which provides federal guarantees to supplement state guarantees.

Once again, I can only very briefly summarize the vast network of abuses which require that the Supreme Court take this appeal and act on my behalf. I am also sending a copy of this letter to the attorneys for the defendants named in the subject litigation for their responses.

This is my final appeal to the New Jersey Supreme Court. The record before the state court system is complete. I have pursued other litigation mentioned within, such that I doubt that a more complete elaboration of the facts could be presented under the circumstances of my having to proceed pro se on 99% of this litigation.

Very truly,

SALVATORE MORETTI, PRO SE

cc: Appellate Division of the Superior Court
Ronald Wiss, Esq. (Wolf, and Samson, Esqs., Multi-Pak)
Bruce Losche, Esq. (Losche and Losche, Esqs., Friendship House)
Carolyn Kristal Esq., (Okin, Pressler, and Shapiro, Esqs., Gutterman, Musicant, and Kreitzman)
Stephen Moses, Esq. (for the City of Hackensack)

P.S. Please consider my extreme time pressures in evaluating this document. I do not have a secretary.

THE RECORD

April 12, 1978

CENTRAL C—3

Apartment owners sue to close home for mentally ill

By Edward J. Flynn
Staff Writer

Friendship House, the operator of a residence for the mentally ill at 387 Park St., Hackensack, is being sued by the owners of a nearby garden apartment complex. The apartment owners want the residence closed.

In a suit filed yesterday in Superior Court, Hackensack, Salvatore Moretti and ROR Construction Corp. charge that the rooming house operated by Friendship House violates a city ordinance which prohibits the boarding of mentally deficient persons.

The suit alleges that the rooming house is a nuisance and has resulted in incidents of open lewdness, assault, and other disturbances.

The suit asserts that this has caused the value of the garden apartments to be lowered and that it has inconvenienced tenants.

Moretti claims that he had made requests to clear up the situation to the city building inspector, the city manager, and the Mayor and Council. The suit contends that the Board of Adjustment rejected a petition Feb. 15 to discontinue the use of the rooming house.

Friendship House leased the property in 1975 as a licensed rooming house for mentally ill persons who are patients at its treatment facilities. There are an average of eight boarders at the house.

Also named as defendants are the Board of Adjustment, Building Inspector Wilbur Lind, City Manager Joseph J. Squillace, and Gutterman, Musicant, and Krietzman, which leases the building to Friendship House.

EXHIBIT S

QUALIFICATIONS OF SALVATORE MORETTI

Graduate of George Washington University, 1972, B.A.

Passed the Real Estate Salesperson Exam given by the State of New Jersey in 1980

Passed the Property Management Course given by the Bergen Community College in 1981

Received a paralegal certificate from the Institute for Legal Assistant and Paralegal Training in 1980

Passed the Course in Introductin to Appraising Real Property in February, 1981

Student at New York Law School since 1981

Published the Hackensack Apartment Owners Newsletter

Resident Manager of Park Court Apartments from 1973 to 1982 (Present)

Owner of Park Court Apartments from 1958 to present

Candidate for the Hackensack City Council in 1981

Member of Mensa from 1962

Associate in Arts Degree, George Washington University, 1963

North Jersey Friendship House, Psychiatric Halfway House
Exhibit WW-3
Notice to Lind, Hackensack Zoning Officer, re Halfway House,
Chancery Trial Exhibit , March 16, 1981

ROR CONSTRUCTION CORPORATION
391 PARK STREET
HACKENSACK, NEW JERSEY 07601
Telephone (201)646-1414

November 25, 1977

Wilbur H. Lind
City of Hackensack
65 Central Avenue
Hackensack, New Jersey 07602

Re: 387 Park Street, Hackensack
Friendship House Psychiatric Facility

Dear Mr. Lind:

On July 26, 1977, City Manager Squillace wrote me regarding the above premises as follows:

> The City's records indicate that the premises was first licensed in 1963 as a Rooming House and since that time there have been two owners of the property and three operators. The present operator listed on the license is "Friendship House, Inc."

Mr. Squillace indicates in his letter that Friendship House, Inc. has obtained a license to operate 387 Park Street, Hackensack, as a Rooming House. The City Manager states that:

> The Rooming House is a licensed non-conforming structure and is being operated in accordance with the (zoning) ordinance. There is nothing further that I can state other than to indicate to you that the occupancy is correct.

A copy of the above letter was sent to you as head of the Department of Community Affairs.

In your letter of October 28, 1977, signed by yourself as Acting City Manager, you state as follows:

> With respect to the licensing as a rooming house of the structure located at 387 Park Street, this license has been in existence since 1963 and on two occasions has had a change either in ownership or operator. At the present time the license is listed in the name of "Friendship House, Inc." To the best of my knowledge, all of the persons residing at 387 Park Street have, by right, the privilege of freedom of movement. This being the case, and since the premises are licensed, there is nothing further that I can say on this.

I question your determination as Chief Building Inspector that 387 Park Street is being used by Friendship House Inc. as a Rooming House. The Code of the City of Hackensack, Chapter 175-3: Definitions, that a Rooming House is synonymous with a Boarding house. A Boarding house is defined in the zoning code as follows:

> Any dwelling or part of any dwelling which has space that is let by the owner or operator to more than three (3) persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator; provided, however, that such roomers and/or boarders shall not include convalescents or chronically sick or mentally deficient or physically incompetent or aged, infirm or similar boarders and/or similar roomers who require medical attention and supervision and are usually housed in hospitals, sanatoriums, homes for the aged, nursing homes and similar institutions. (emphasis added)

It is clear that Friendship House's psychiatric facility at 387 Park Street houses patients who with their emotional problems can be considered as chronically sick or mentally deficient. As proof that the residents at 387 Park Street are emotionally disturbed I rely upon the descriptive information circulated by

North Jersey Friendship House, Inc. itself, and upon the problems created by these residents in our neighborhood. I have provided your and the City council with the Friendship House descriptive brochures and also accounts of the behavioral problems of Friendship House residents. It follows from the foregoing that 387 Park Street cannot be considered as a Rooming House or Boarding house, and cannot be licensed as such.

387 Park Street is more particularly described as occupying Block 418, Lot 24 on a lot and block map on file in the City Clerk's Office in Hackensack. Block 418, Lot 24 is in an R-3B use district, and the list of permitted uses does not include "institutional buildings" as defined by the Hackensack Zoning Code. it is obvious from court decisions to be cited herein that the Friendship House psychiatric facility is not a rooming house but rather is an "institutional building" as defined by the City Zoning Code. A variance to be acted upon by the Zoning Board of Adjustment is required to create such an institutional use in an R-3B district. No such variance has been applied for or received by the North Jersey Friendship House Inc.

I am sure you are familiar with the case of Dr. & Mrs. Buonanno. They applied to the Board of Adjustment for a variance to operate a dwelling at 320 Summit Avenue which housed emotionally disturbed young people. Their variance application, No. 1-72, was denied. The Resolution by the Board of Adjustment states as follows:

> The Board does agree with the Building Inspector that the use proposed is that of a Boarding House...

Dr. & Mrs. Buonanno appealed the denial of their variance to the Superior Court, Law Division, Docket No. L-21194-72 P.W. The case was decided December 11, 1973. Judge Morrison ruled as follows:

> The Board's finding that the Summit Avenue house was a "boarding house," was erroneous. Article X, section (8) specifically excludes "convalescents," the "chronically sick"

and "mentally deficient" persons from being considered as "boarders," for purposes of constituting a "boarding house" as defined therein. Certainly Dr. Buonanno's patients, with their emotional problems, can be considered as chronically sick or mentally deficient.

It is apparent that the house on Summit Avenue constituted an "institutional building" as defined in Article X, section (38).

The Appellate Division of the Superior Court concurred with this decision. In their decision rendered October 31, 1975, Docket No. A-1515-73 and A-1547-74, the court found as follows:

We concur with the determination by the trial judge that the use of the Summit Avenue premises was institutional in nature, that such use of the building thereby constituted it an institutional building within the meaning of the zoning ordinance, and that such use is not a permitted use in the zoning district (R-1) in which the premises are situated. Consequently, we affirm so much of the judgement as reversed the action of the board of adjustment and remanded the variance proceedings to the board of adjustment for reconsideration of its action in the light of the determination of the court that the use was an institutional use rather than a boarding house.

It is clear from the foregoing that North Jersey Friendship House Inc. is using 387 Park Street not as a rooming house but as an institutional building. For such a use, a variance must be applied for to the Hackensack Board of Adjustment. This variance procedure was precisely what was required of the Hackensack Hospital Association Inc. when they desired to establish Project Advance at 316 Union Street, Hackensack. I have written to you and the City Council regarding this matter. Project Advance involved a dwelling which housed residents with a history of mental illness. The Hackensack Hospital Association, Inc. attempted to secure a license to operate as a rooming house. The response by Hackensack City Attorney Seymour Chase dated January 23, 1976 is as follows:

Mr. Gormley (the owner of 316 Union Street), I believe, will have to choose between a continued operation of his rooming house while it exists or the offer from Hackensack Hospital, subject to variance approval.

The result was that a use variance application was filed, application no. 7-76. 316 Union Street is in the same use district, R3B, as 387 Park Street, Hackensack.

The doctrine of the Equal Protection of the Law demands that like cases receive like treatment. I have cited the court rulings requiring that such uses as the Friendship House Psychiatric Facility be considered as Institutional Uses. I have also cited the example of Project Advance which required that a use variance be applied for with the Zoning Board of Adjustment.

I trust that the City of Hackensack will take action to close down the psychiatric facility as 387 Park Street since said facility is an illegal use of the subject premises.

Very truly,

ROR CONSTRUCTION CORPORATION

By: SALVATORE MORETTI

CERTIFIED MAIL
NO. 267179
RETURN RECEIPT REQUESTED

cc: Mayor Frank Zisa, Cert. Mail, No. 267180, R.R.R.
Deputy Mayor Fleming, Cert. Mail No. 267181, R.R.R.
Councilwoman Pavlick, Cert. Mail No. 267182, R.R.R.
Councilwoman Trammell, Cert. Mail No. 267183, R.R.R.
Councilwoman Bosshard, Cert. Mail No. 267184, R.R.R.

North Jersey Friendship House - Psychiatric Use

A psychiatric halfway house has been established at 387 Park Street, Hackensack (Block 418, Lot 24). The subject property, 387 Park Sm., is located in an R-3B use district. This use district does not allow psychiatric halfway houses. No application for a variation from the zoning code has been made to establish a psychiatric halfway house at 387 Park Street. Nevertheless, North Jersey Friendship House Inc. is operating a psychiatric halfway house at 387 Park Street.

387 Park Street, Hackensack was purchased by Gutterman -Musicant, Inc. (a New Jersey corporation with principal office at 402 Park Street, Hackensack) from Adina Goldman (as Executrix under the Last Will and Testament of Max Rupp, and her husband Martin Goldman, residing at Rchov Bavit Vegan 78, Bayit Vegan, Jerusalem) on September 6, 1973 (Deed Book 5847, page 68). Shortly thereafter, 387 Park Street was leased by its owner to North Jersey Friendship House Inc. for use as a psychiatric halfway house.

North Jersey Friendship House, Inc. is a psychiatric rehabilitation center with offices at 125 Atlantic Street, Hackensack, New Jersey, tel. (201)488-2121. North Jersey Friendship House, Inc. (hereinafter referred to as Friendship House) has secured a boardinghouse license for 387 Park Street, and operates it as a psychiatric halfway house.

387 Park Street is in an R-3B use district. This use district permits single family dwellings, churches, municipal buildings-parks-playgrounds, two-family dwellings, garden apartments, multi-family dwellings, and professional and business office buildings. Special exception uses to be acted upon by the Board of Adjustment are nursing, rest, and convalescent homes.

Despite the fact that a psychiatric halfway house is not a permitted use in this zone, neither the owner, Gutterman-Musicant, Inc. (now Gutterman-Musicant-Kreitzman, inc., hereinafter referred to as G-M-K Inc.) nor Friendship House has applied for a variance from the zoning code. Instead, Friendship House applied for and was issued a boardinghouse license for 387 Park Street by Hackensack Zoning Officer Wilber Lind. Clearly, this license procedure by-passed the certified notification of property owners within 200 feet of the subject premises, by-passed the publication of legal notice and public hearing before the Zoning Board of Adjustment.

The owner of 387 Park Street, G-M-K, Inc., operates a mortuary at 402 Park Street, Hackensack. G-M-K Inc. has appeared before the Zoning Board of Adjustment seeking.....

North Jersey Friendship House - Psychiatric Use

ROR CONSTRUCTION CORPORATION
391 B PARK STREET
HACKENSACK, NEW JERSEY 07601
Telephone (201)646-1414

September 30, 1977

Hackensack City Hall
65 Central Avenue
Hackensack, New Jersey 07602

Re: 387 Park Street, the Friendship
House Psychiatric Center

On June 15, 1977, I sent each council member a certified letter dealing with the house for the mentally disturbed, as above captioned. I stated the following:

> The actions of Gutterman-Musicant-Kreitzman cause doubts as to their concern about our neighborhood. Two funeral home buildings at the corner of Park and Passaic streets were condemned by the City of Hackensack after years of neglect by the owners. The funeral home...purchased the house immediately to our south. They have turned this house into a Psychiatric Rehabilitation Center. This Center, known as Friendship House, is located at 387 Park Street. The fact that it is unsupervised is evident to anyone who lives in the neighborhood. Open sex acts between male and female residents, exhibitionism, and drug taking frequently occurs there. There was an attempted rape right below my window. Loud arguments have broken out between Park Court residents and the psychiatric center residents. The police and ambulances have been called to the psychiatric center a number of times...It is clear that the thoroughly objectionable psychiatric center at 387 Park street should be closed down immediately.

On July 18, 1977, I appeared before the Mayor and Council in council chambers and addressed you again regarding the psychiatric facility at 387 Park Street, Hackensack. I informed the council that referrals to Friendship House came from Bergen Pines mental hospital and from psychiatrists. I concluded my speech as follows: "I trust that the City Council will look into the zoning and other legal problems stemming from the operation of this mental facility in our neighborhood."

On July 26, 1977, City Manager Squillace wrote me a letter stating that 387 Park Street is a "licensed non-conforming structure." He concludes as follows: "While I understand that the Friendship House, Inc. is an organization which attempts to help certain individuals, the use of the building for these people as roomers certainly is within the scope of our ordinance."

I referred this matter to my attorney and as I have reported to you, he informs me that this facility is not a permitted use in a residential neighborhood. On September 19, 1977, I again addressed the City Council on this mental facility. I include the following summary of my address that evening for your reference:

1. Friendship House, located at 387 Park Street, Hackensack, next to Park Court Apartments, is a Psychiatric Rehabilitation Center, Transitional Residence, i.e. a halfway house for people with mental and emotional problems.

2. The City Council was notified of this by myself via certified mail, but did nothing about it.

3. Lyndhurst is challenging a halfway house which is projected for that municipality.

4. No residents of our neighborhood received any prior notice that such a psychiatric facility was to be located in our neighborhood. There was no request for zoning board approval.

5. City Manager Squillace's reply by letter, that this was merely a boarding house that helped people was no reply at all to the grave problems presented by this facility to our neighborhood.

6. To be admitted to this facility, one needs to have mental problems. Some of the residents have come from the mental hospital at Bergen Pines. With such people living together in a house, there are bound to be serious problems arising which the police are not equipped to handle. The police have been called there repeatedly, without avail.

7. A young woman resident was the object of repeated rape attempts due to her promiscuous behavior. On one occassion, a lady had to come to her help when a man was tearing her clothes off on the sidewalk. On another occassion, a young man broke into her room and tried to rape her.

8. There were numerous other incidents which occurred at this mental health facility which, due to the nature of the incidents, are not suitable for discussion at public hearing.

9. I gave my phone number and invited council members to call me regarding this matter.

In order to enlightem the city council on what is involved in allowing a mental facility for emotionally disturbed people to be located in Hackensack, I will recap what it has been like being located next to "Friendship" house. My office overlooks this mental health facility.

When "friendship" house first opened, a van full of people arrived at 387 Park Street and its occupants began living there. No one from the Gutterman-Musicant-Kreitzman funeral home, the owners of record, informed me that the house was being converted into a mental facility. No one from the City of Hackensack came to me and informed me that this house would become the home for the mentally ill. There were no public hearings on this matter.

As soon as "friendship" house took over, various forms of deviant behavior began to manifest themself on the premises. Loud arguments would break out, and invariably the police would be called, but with no effect. I recall that for about a month a woman psychiatric resident accused a young man living at "Friendship House" of stealing her undershirts. The language between the two became so foul, that eventually the young man left the psychiatric center. In addition to the two times the police came when the man's two dogs were killed by auto, the police were called at least a half dozen times on these arguments.

Arguments broke out between Park Court Apartment tenants and psychiatric residents. When one of my tenants, a young couple, moved out I discovered why the arguments occurred. The psychiatric resident living directly across from the tenant's bedroom window walked around naked with his penis erect for an hour every day.

Another psychiatric resident would stand immobile for a number of hours out front of the psychiatric center, despite the fact that there were heavy downpours of rain. The sight of this man drenching wet standing in the pouring rain without raincoat or umbrella for two hours or more aroused the concern of passersby. One man who tried to help the fellow out of the rain found that the psychiatric resident pushed him away and told him to stay away from him.

Finding that this odd behavior was ruining the neighborhood, I tried to speak to the "Friendship House" residents. I got nowhere. The few simple inquiries I made resulted in verbal abuse directed toward myself from the psychiatric residents.

A young woman who resided at "Friendship House" had intercourse with one of the male psychiatric residents, and occassionally with other men. Her room was on the first floor. She had intercourse openly, with windows open and in clear view of passersby in the neighborhood. An audience developed around

her bedroom window. Men peered into her window nightly for about a month watching this unusual spectable of fellatio and sexual intercourse. Since it was known that she returned to "Friendship House" at 4 p.m. in the afternoon, men would wait on Park Street and proposition her as she returned "home." On a couple of occasions, men grabbed her, tore her clothes off, and fondled her sexually. One young man tore through her bedroom screen, entered her room while she was sleeping, and tried to rape her. The police were called repeatedly due to these problems, but without avail.

Drug abuse was frequent. The psychiatric residents walked around "stoned" from taking drugs. Occassionally drug overdoses occurred. An ambulance was called several times in order to carry out psychiatric residents and take them to the hospital.

One woman psychiatric resident sat on the front porch of "Friendship House" and talked incoherently to herself hour after hour. Other psychiatric residents blasted the radio or played drums at 4 a.m. in the morning. Some women psychiatric residents would sleep out on the front lawn of 387 Park Street and insult passersby by at 12, 1 or 2 a.m. in the morning

Psychiatric residents would regularly expose themselves. Women residents would walk around bare chested with male psychiatric residents, in clear view of the tenants of Park Court Apartments. Psychiatric women would regularly expose their pubic region.

In view of the foregoing, it is clear why I am not satisfied with Squillace's letter dated July 26, 1977. The effects of such a psychiatric facility on a residential neighborhood are extremely disturbing. The perseveration of abnormal behavior from such a mental facility has a cumulative deleterious effect on the neighborhood. Apartment house tenants want to live in a safe, quiet neighborhood, not next to an insane asylum. I hope that this letter will convince the Hackensack City Council to remove this mental health blight from our neighborhood, and to remove it immediately.

The residents of our neighborhood do not want to be treated as guinea pigs for social experiments. Squillace's remarks that "friendship" house helps people is, in view of the foregoing, ridiculous. I have not seen anyone cured at this mental health operation. The fact that only emotionally disturbed people can live at "friendship" house creates an atmosphere where deviant behavior is only reinforced.

As I have informed the city, Musicant, the funeral director, informed me that he intends to convert this residence into a parking lot. This would be a prohibited use under the Hackensack zoning code. Such an action would require a variance approved by the Hackensack Board of Adjustment. Musicant stated that he intended to get a variance from the city. I informed him that I would be opposed to such a variance and would appear before the Board of Adjustment to argue against the granting of such a variance. In view of this, it appears highly suspect that Gutterman-Musicant-Kreitzman Inc. would turn this property into a mini-insane asylum and harass me and the tenants of Park Court Apartments.

I trust that the foregoing will be the necessary catalyst to move the city council to do away with this menace, the "friendship" house, in our neighborhood. I am unwilling to act as an unpaid guard to protect my tenants from the degenerates who are drawn to our neighborhood by this mental health facility. I am attempting to operate an apartment house, free from harassment anr strife. By continuing this mental health facility in our neighborhood, the city council is damaging my apartment house and my livelihood.

Very truly,

ROR CONSTRUCTION CORPORATION
By: SALVATORE MORETTI

CERTIFIED MAIL
NO.
RETURN RECEIPT REQUESTED

MUNICIPAL COURT OF THE
CITY OF HACKENSACK
STATE OF NEW JERSEY

Municipal Court No.

Salvatore Moretti
Plaintiff
vs.
Gutterman-Musicant-Kreitzman, Inc., A Corp.
of the State of New Jersey
Defendant

FORMAL COMPLAINT

The Plaintiff, Salvatore Moretti, a resident of 391 B Park Street, Hackensack, New Jersey, and a property owner of property located at 391-7 Park Street, Hackensack, New Jersey, says:

1. The Defendant Gutterman-Musicant-Kreitzman, Inc., a New Jersey Corporation hereafter referred to as GMK, is the owner and operator of a mortuary located at 402 park Street, Hackensack, New Jersey. GMK also uses a parking facility located at the south-west corner of Park and Passaic Streets for parking the vehicles of invitees.

2. On Friday, December 28, 1979, Defendant GMK lined up vehicles in Park Street, between Passaic Street and Berry Street, said vehicles belonging to invitees. These vehicles remained parked in the street, thereby blocking the street to through traffic.

3. The Defendant, GMK, due to the conduct of its mortuary operation, arranged the vehicles of invitees such that these vehicles blocked driveways on Park Street, between Berry Street and Clay Street, in the City of Hackensack.

4. The Defendant, GMK, due to the conduct of its mortuary operation, prevented traffic from making a left turn onto Park Street from Berry Street, without facing the hazard of colliding with southbound vehicles traveling in the northbound lane.

5. The Defendant, GMK, due to the conduct of its mortuary operation, arranged the vehicles of invitees such that said vehicles blocked the entire west side of Park Street between Berry Street and Clay Street. The blocking vehicles formed an unmoving line of vehicles along the entire block from Passaic Street to Berry Street.

6. The Defendant, GMK, due to the conduct of its mortuary operation, arranged the vehicles of invitees such that GMK failed to allow traffic to proceed southerly on Park Street, although Park Street is a two-way street. Traffic which required to pass along Park Street is a two-way street. Traffic which required to pass along Park Street in a southbound direction, was forced to drive illegally southbound in the northbound lane, thereby risking collision with northbound traffic also using the same lane.

7. The Defendant, GMK, due to the conduct of its mortuary operation, drove a hearse southerly on Park Street in the northbound lane, since the southbound lane was clogged with the vehicles of invitees of GMK.

8. The Defendant, GMK, due to the conduct of its mortuary operation endangered the lives of drivers who were attempting to use Park Street between Berry Street and Clay Street, either for northbound transit or for southbound transit. All through traffic was forced to proceed in the one remaining lane, the southbound lane, which was open to through traffic. The danger of collision with oncoming traffic is due to one lane being used for two way traffic.

9. The Defendant, GMK, on Friday, December 28, 1979, parked vehicles illegally on Passaic Street, which street does not allow parking. Invitees of GMK were advised to park illegally on Passaic Street by employees or agents of GMK.

10.The Defendant, GMK, due to the conduct of its mortuary operation, and the conduct of its employees or agents, parks the vehicles of invitees on residential properties on Park Street, including the property owned by Plaintiff.

11.The Defendant, GMK, has caused to be erected and maintains a sign at the parking facility located at the corner of Park and Passaic Streets which advises invitees to turn right, turn on bright lights, and line up in the southbound lane of Park Street.

12. The Defendant, GMK, due to the conduct of its mortuary operation, violates the following municipal Hackensack ordinances, and violates the following New Jersey Statutes as per the Statewide Violations Bureau Schedule on file at the Violations Bureau of the City of Hackensack, State of New Jersey:

Municipal Ordinance Violation by GMK

1. No parking - prohibited area Ordinance 27-74, Chap. 170-50
2. Parking on Private Property . . Ordinance 1-74, Chap. 127-1

Statewide Violations By GMK

1. Obstructing Passage of Vehicles ..... Title 39, 4-67
2. Failing to Keep Right ..... Title 39, 4-82
3. One-Way Traffic ..... Title 39, 4-85.1
4. Slow Speed as Blocking Traffic ..... Title 39, 4-97.1
5. Parking on Highway . Parking on Highway . Title 39, 4-136
6. Improper Parking ..... Title 39, 4-138
   - In front of driveway ..... d
   - Within 50 ft. of stop sign ..... h
   - Double parking ..... m

13. The Defendant, GMK, due to the arrangement of its parking facility at the south west corner of Park and Passaic Streets, and due to the use of said parking facility by invitees of GMK at night, causes the shining of headlight into the windows of the residential property at 397 Park Street, Hackensack, thereby interfering with the peaceable use of the residential premises situated at 397 Park Street, Hackensack.

14. The Defendant, GMK, due to the unloading of corpses at the southerly side of its mortuary structure, visible to the public on the street, and visible to the residents living on Park Street, interferes with the peaceful use of the residential properties located on Park Street in the City of Hackensack.

Wherefore Plaintiff demands that GMK be prohibited from the operation of its mortuary in the manner complained of, more particularly as follows:

a. That the mortuary be restrained from blocking the west side of Park Street, at any point between Passaic Street and Central Avenue.

b. That the Mortuary be restrained from parking the vehicles of invitees illegally in the City of Hackensack, as described in this complaint.

c. That the mortuary be required to erect a fencing suitable to a residential neighborhood to block the viewing of corpses being unloaded, or loaded into mortuary vehicles, also in order to prevent the headlights of mortuary invitees from shining into the residential properties located on Park Street.

d. That the mortuary be restrained from using the driveway located on the southerly side of the mortuary building for the exiting of mortuary hearses, since said hearses can exit from the northerly side of the mortuary building without interfering with the residential character of the Park Street neighborhood.

e. That the mortuary be prohibited from repeating the violations set forth under the Hackensack Municipal ordinance and the Statewide Statutory violation herein-above set forth.

January 4, 1980

Salvatore Moretti
Plaintiff

APPENDED. LETTER DATED DECEMBER 28, 1979, AND DIRECTED TO HAROLD VASIOS, CLERK OF THE MUNICIPAL COURT OF THE CITY OF HACKENSACK REGARDING THE ABOVE COMPLAINT.

Jewish Funeral Parlor Processions in front of Park Court Apartments

Jewish Funeral Parlor Processions in front of Park Court

Jewish Funeral Parlor Processions in front of Park Court Apts

Salvatore Moretti's Home at 390 Park Street, Hackensack
Across the street from Park Court Appartments

Home to the north at Salvatore Moretti's Home

App. 71

Multi-Pak Garbage Compactor Factory. Land Owned by Bornstein

(Brief by Moretti)

PRELIMINARY STATEMENT

This is an action for injunctive relief and damages based upon noise, odors, vibration, and blight caused by and emanting from the Multi-Pak factory which is located at 400 Railroad Avenue, Hackensack, N.J. It is undisputed that the Multi-Pak plant is contiguous to residential properties on its east and northerly borders, and that Multi-Pak is located in a zone which restricts manufacturing plants so that they produce "no resulting noxious or offensive odor, dust, smoke, gas, noise, vibration, heat, bapor or glare beyond the boundary of the lot on which such use is located." (Hackensack Zoning Code, Schedule of District Regulations, Part 3, M-1 Use District) It is undisputed that the Multi-Pak plant is constructed six inches from the lot line of ROR Construction Corporation's garden apartment complex (Park Court Apartments), said apartment complex containing twenty apartments. It is undisputed that the factory has numerous doors and windows which face the garden apartment complex and which are open during the operation of the factory.

While Defendant Multi-Pak Corporation engaged a consultant in accoustics, Ostergaard Associates (upon whose report defendant relies for this motion for summary judgement), it is undisputed that neither Salvatore Moretti nor ROR Construction Corporation were notified so that they could be present when the readings were taken on one day only, June 18, 1980.

It is undisputed that Ostergaard Associates made no tests as to vibration, smoke, glare, offensive odor, dust, gas, heat, vapor, or glare beyond the boundary of the lot on which Multi-Pak is located.

At depositions conducted on Salvatore Moretti, Mr. Moretti revealed noise meter readings far in excess of the standards set forth in the New Jersey Noise Control Regulations.

While the City of Hackensack has failed to take action against Multi-Pak, Plaintiff contends that the inspections were either not made or were made inadequately. It is undisputed that no quantitative meter readings have been made by the City of Hackensack at the Multi-Pak site by any of the City's inspectors. The City has produced no meter readings relating to noise, offensive odor, vibration, smoke, glare, or dust.

The report of Richard Galofaro, Environmental Consultant, appended to defendant's motion for summary judgement, states that "the residents of ROR Construction are being subjected to a subtle bombardment of sound pressure levels which consequently lessen the property value of 391-397 Park Street." (p. 3)

It is submitted that under this fact pattern, the court has no option but to deny defendant's motion for summary judgement and proceed to a trial on the merits.

STATEMENT OF FACTS

Defendant Multi-Pak Corporation first moved to 400 Railroad Avenue, Hackensack in 1973 (Deposition of James O'Rourke on September 30, 1980, p. 7). Multi-Pak welds, shears, grinds, and paints steel plates so as to manufacture steel garbage compactors. (Dep., p. 8). The shearing of steel involves cutting steel plates with a blade (dep., p. 11). Oxygen and acetylene are used to burn the steel to a configuration (dep. p. 13). Both an air grinder and an electric grinder are used (dep. p. 15). A spray paint booth is located toward the rear of the plant about 25 feet from the garden apartment complex owned by ROR Construction Corporation. (Dep., p. 16, 17) This spray paint booth is vented to the roof. Raw materials are stored on the outside of the plant (Dep., p. 21). The hours of operation are alleged to be from 7:30 a.m. (answers to interrogatories by O'Rourke) to ten o'clock, Monday through Friday (dep. p. 24, 25), and on Saturday from 8 to 1 (Dep., p. 27). Multi-Pak operates a punch press which punches holes in steel (dep. p. 28): Multi-Pak also operates a "brake" which bends steel (dep., p. 27). Multi-Pak uses two fork lifts (dep., p. 29). Multi-Pak uses lacquer to paint the finished product (dep., p. 29); toluene solvents are used in connection with the painting pro-cess (dep., p. 29). Lathes are used to cut metal (dep., p. 30). A shaper, grinder, and drill presses are located in the machine shop (dep., p. 30). There are numerous windows located in the Multi-Pak plant (dep., p. 41, 42). The compactors weigh approximately 2,000 pounds fully constructed. (answers to Interrogatories by O'Rourke, April 21, 1980).

The Multi-Pak corporation never received variance approval to operate at 400 Railroad Avenue, Hackensack. Multi-Pak occupies a site zoned M-1 Manufacturing. There are two manufacturing zones in Hackensack, M-1 and M-2. The M-2 zone permits all uses allowed in the M-1 zone, plus all uses permitted by special exception in the M-1 district. It is clear that the M-1 zone is more restrictive classification than the M-2 zone. The M-1 zone allows "general manufacturing plant or establishment for

processing, fabricating or assembly, *provided that there is no resulting noxious or offensive odor, dust, smoke, gas, noise, vibration, heat, vapor or glare beyond the boundary of the lot on which such* use is located, and provided further that such use is not expressly prohibited by this chapter." (emphasis added, from the code of the City of Hackensack, Zoning, Schedule of District Regulations, Part3).

Excessive noise is treated in the Code of the City of Hackensack at Chapter 112, Article II. The excessive noise discussed therein applies to M-1 districts, but not to M-2 districts.

Nuisances are treated by the Code of the City of Hackensack at Chapter 114. Section 114-2 enumerates nuisances as including:

(18) Any noise, odor, light, contact or other condition which disturbs the quiet or repose of others in the neighborhood to the detriment of the health of any human being.

(19) Any trade, industry or business that is noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise, or light.

It is clear that Multi-Pak is a nuisance under both of these paragraphs.

The Multi-Pak plant is bordered on its north by five homes, and on the east by Park Court Apartments, a twenty unit all brick garden apartment house, which is located in a R-3B residential use district. The M-2 use districts in the City are consentrated along South River Street, South Newman Street, and the juncture of State Highway Route 4 and Hackensack Avenue. There are no M-2 use districts within 3,000 feet of the

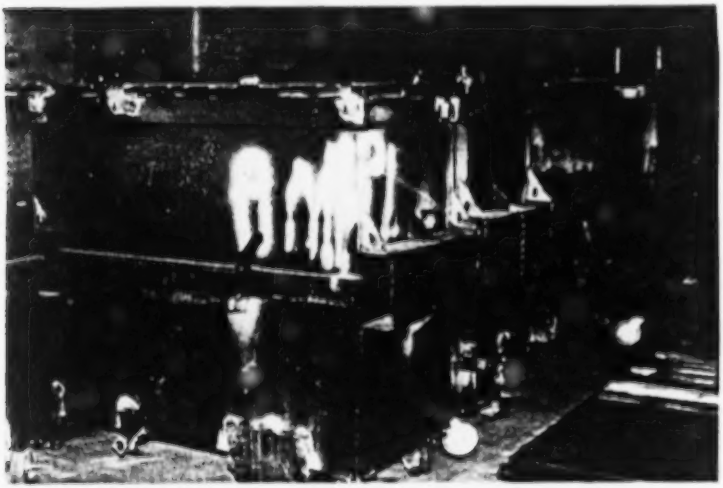
Multi-Pak plant. The M-2 use districts are generally occupied by heavy industrial uses, and are not contiguous to residential properties. By contrast, the M-1 use district in Hackensack is restricted to light manufacturing due to its proximity to residential-amenity properties.

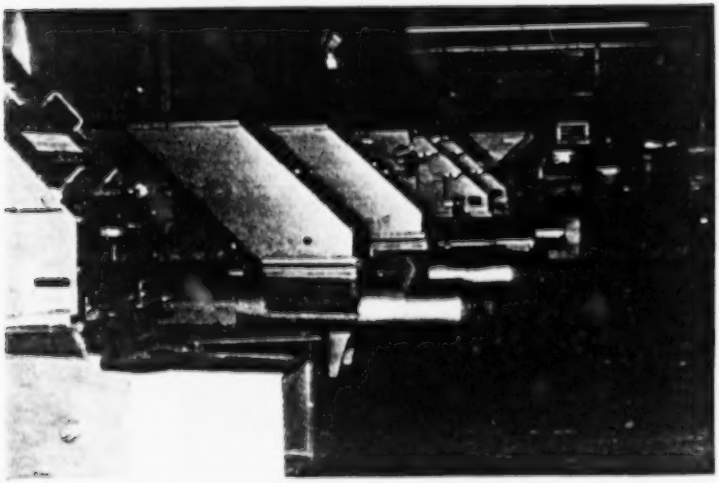
The fact that Hackensack's inspectors have failed to cite Multi-Pak for building and nuisance violations is easy to explain. The City of Hackensack has never conducted a noise meter reading at the Multi-Pak plant. The City has never conducted a long term air pollution study at Multi-Pak. The City of Hackensack has never measured the vibration caused by Multi-Pak's dropping of heavy steel plates on its concrete floors. What kind of inspections were performed? Clearly, the City's inspectors never used any instrumentation at all which would be required to conduct scientific tests. Remarkably, the City's inspectors admit that despite the shearing, punching, grinding and transporting of steel, and the painting of the compactors, they heard nothing, and presumably smelled nothing as well. The City admits that only two inspections were made during the day during normal business hours. Multi-Pak's manufacturing process consists of a number of parts, a number of processes. The City never identifies what process was inspected. Were the inspectors present at the site when the compactors were being sprayed in the spray paint booth? There is no indication that they were. Were the City's inspectors present at 7:00 a.m. when the plant opens, at 7:30, at 8:00 a.m., at 8:30 a.m.? It appears not. Were the inspectors present when the punch press was in operation, when steel was being sheared, when steel was being bent or grinded? It appears not. 25 inadequate inspections do not equal one adequate one. An adequate inspection must take place when all manufacturing processes are occuring. There is no mention that either the City or Ostergaard Associates attempted to measure any manufacturing process used by Multi-Pak. The City's inspections were based purely on conjectures of a qualitative sort, unsupported by scientific corroboration.

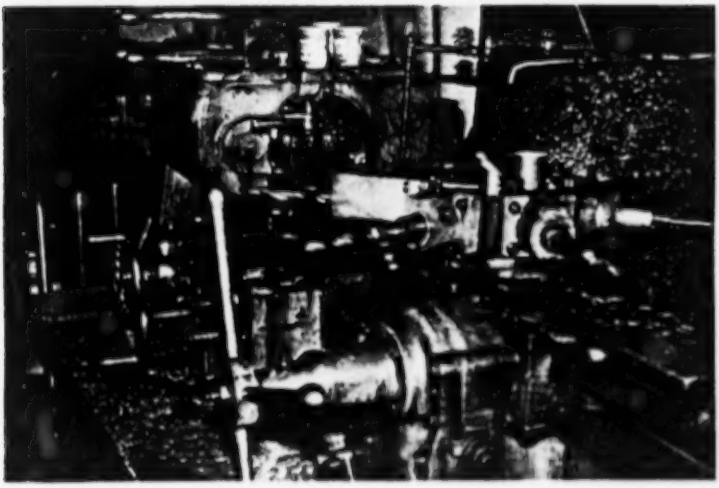
In opposition to the reports of Multi-Pak's Ostergaard Associates and the City's inspectors, are the reports of Richard Galofaro and Salvatore Moretti. Salvatore Moretti is a long term resident of Park Court Apartments, and he did make accurate meter readings over many months at the Multi-Pak site. The description by James O'Rourke of his operation parallel the reports of Salvatore Moretti as to the sounds produced at the factory. Galofaro mentions that he could feel the vibration from the factory 125 feet from the factory on the second floor of Park Court Apartments.

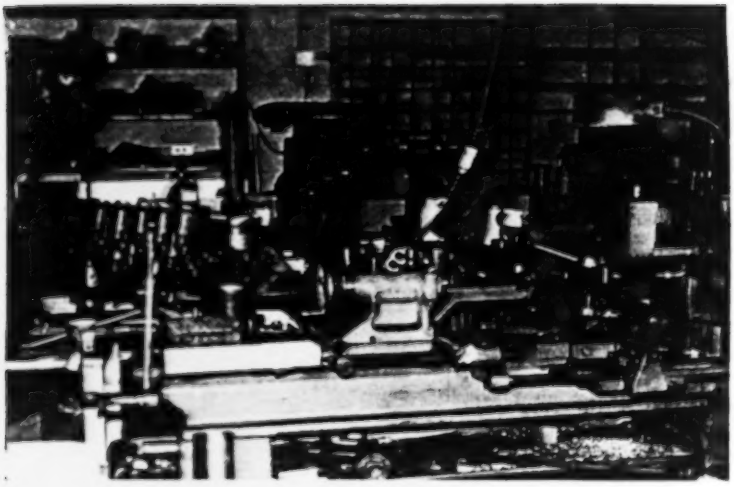
Multi-Pak never secured a variance. Multi-Pak never revealed that they were attempting to secure a license to operate a spray paint booth. Multi-Pak never revealed that they were attempting to secure licenses to manufacture compactors using acetylene torches. Which Multi-Pak appears to have disguised its operation, scientific test reveal its true impact on the surrounding residential properties.

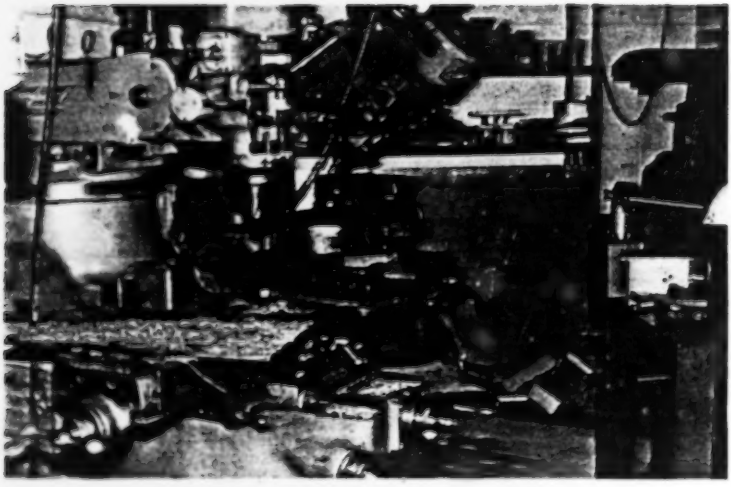
All photos, Pages 1 to 16, Taken vy Salvatore Moretti, 5/17/82, of the Interior A1 of the Multi-Pak Plant, 400 Railroad Ave.,

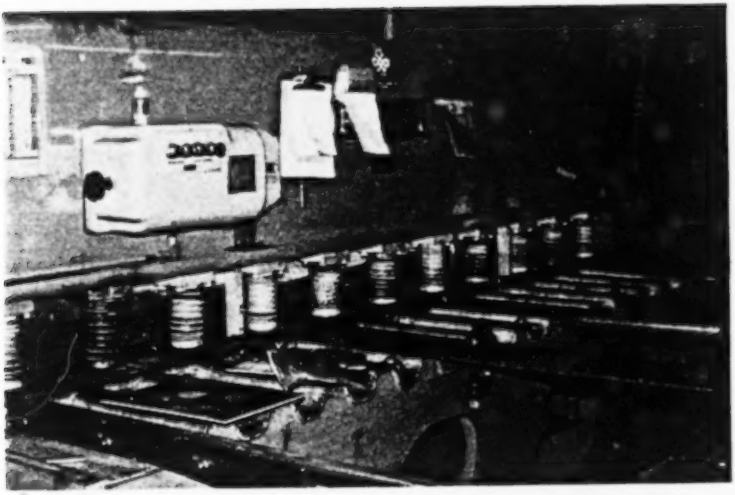


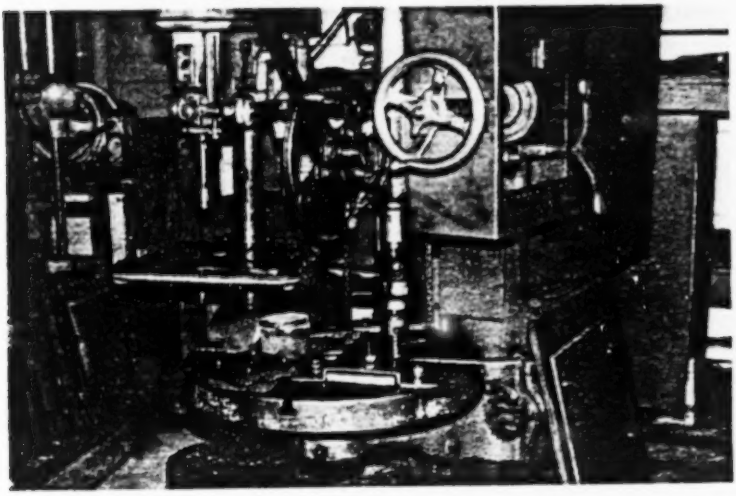


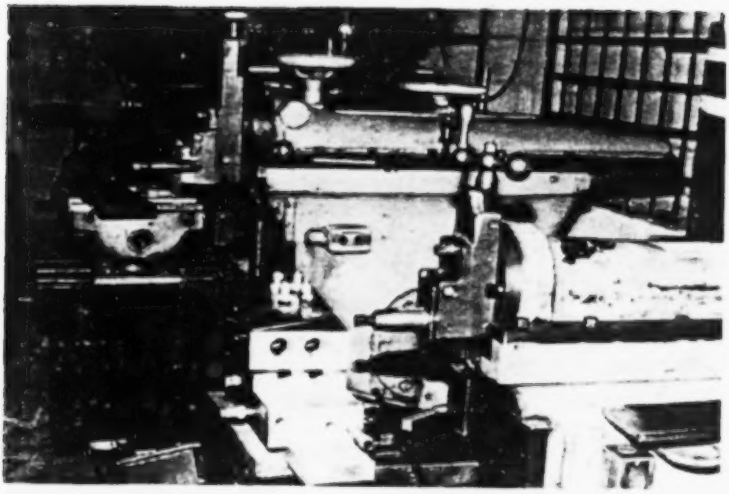


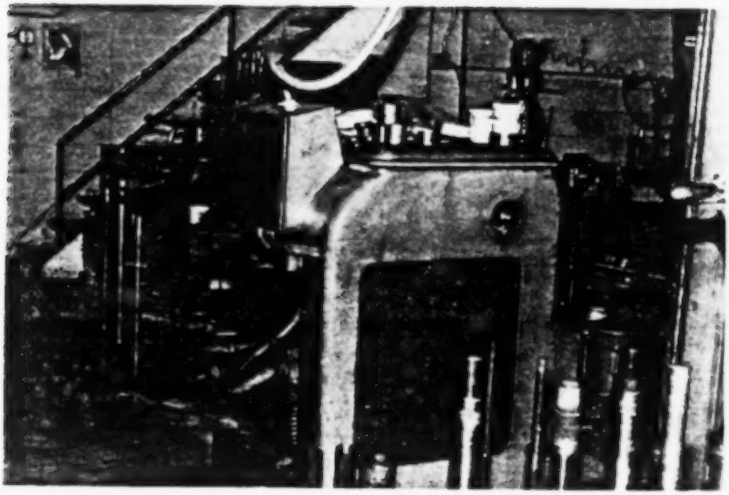


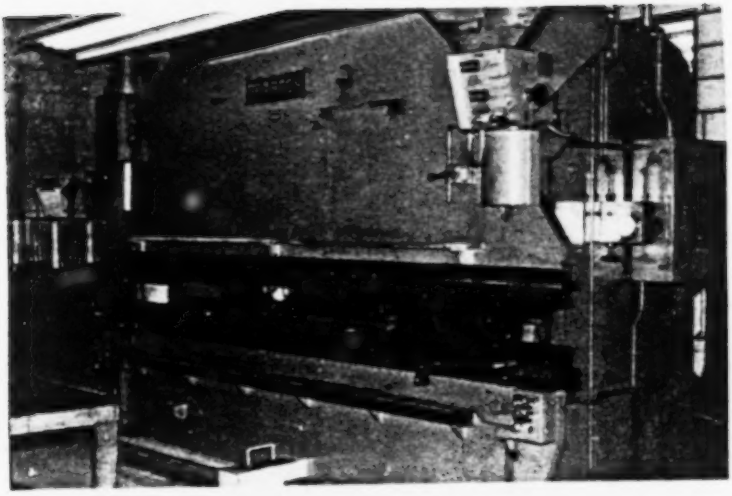


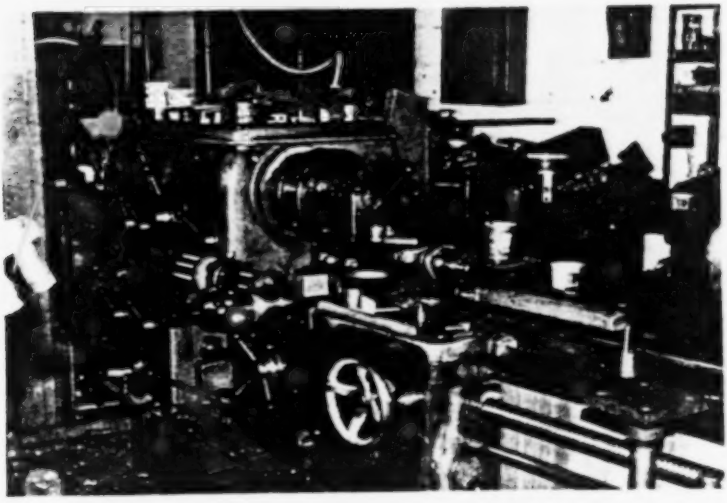


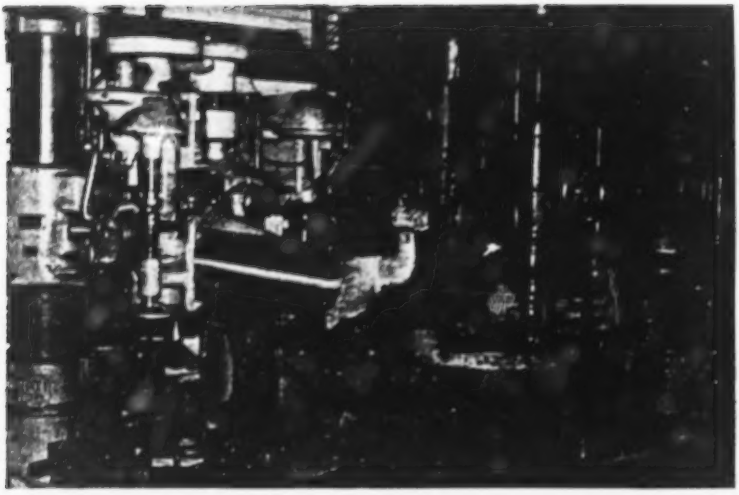


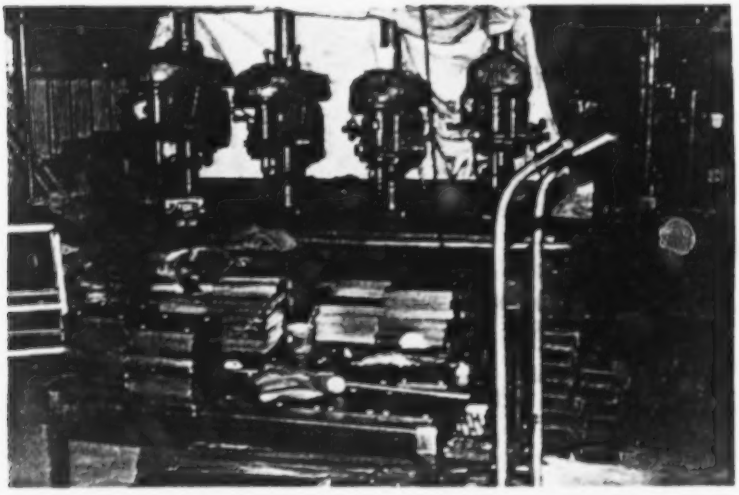


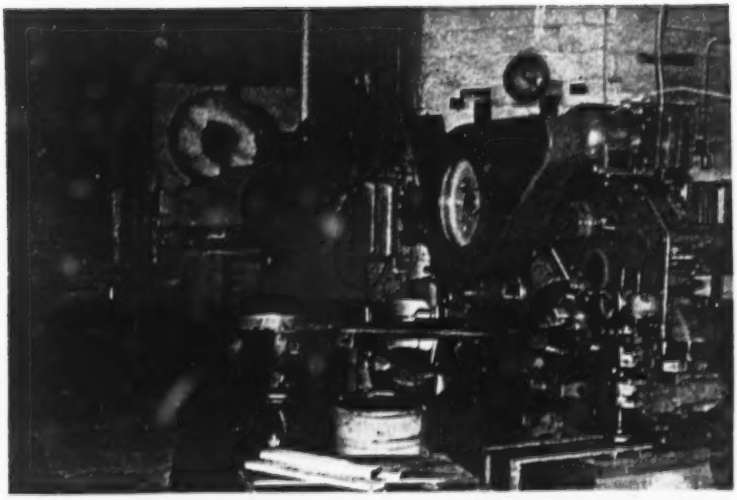


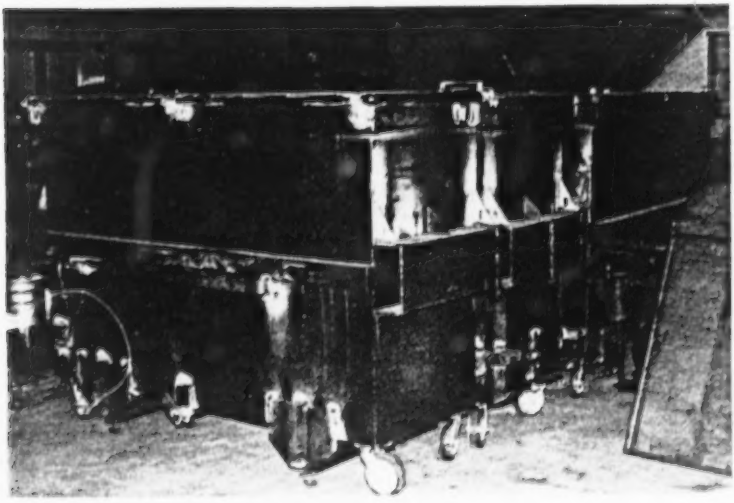


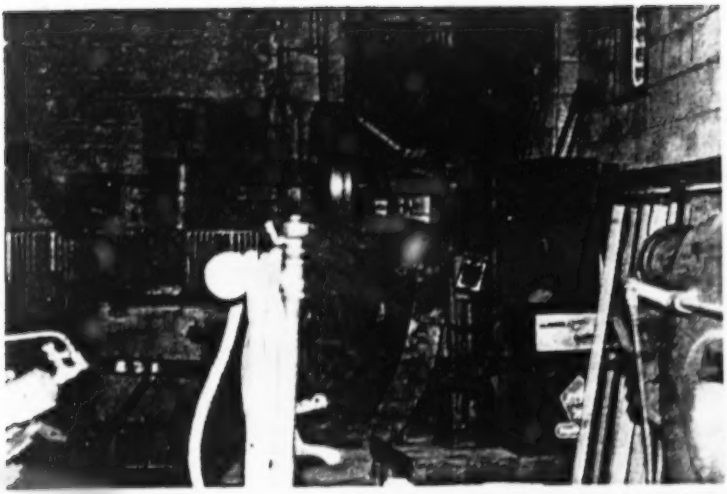


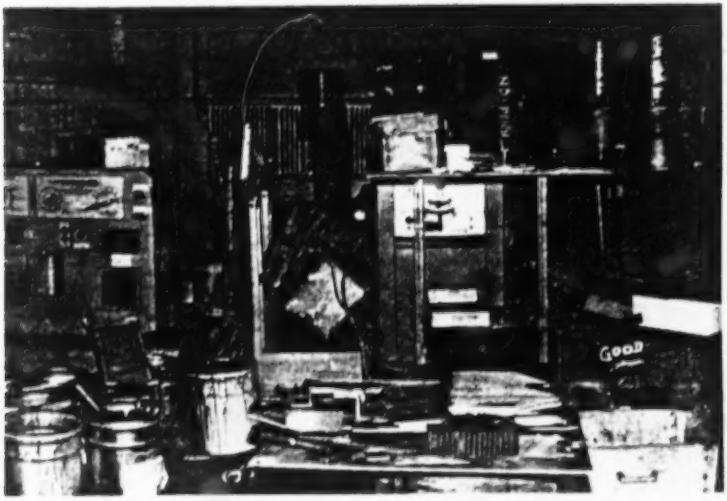








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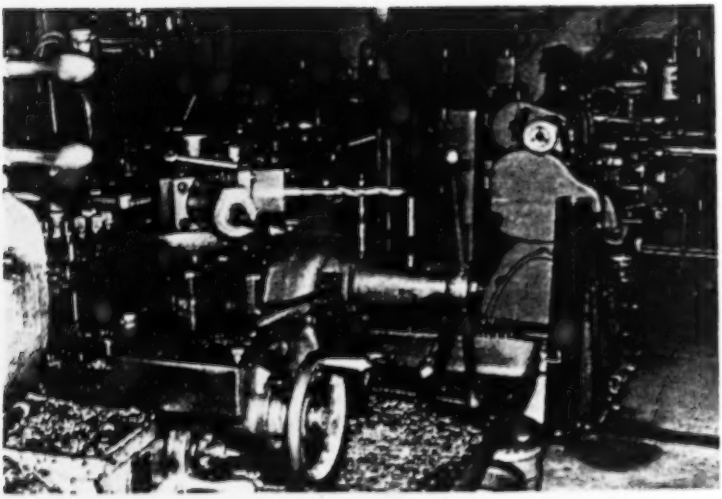

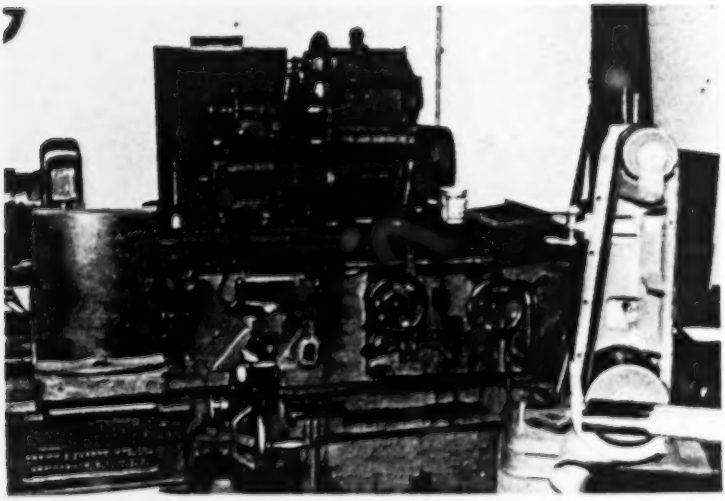

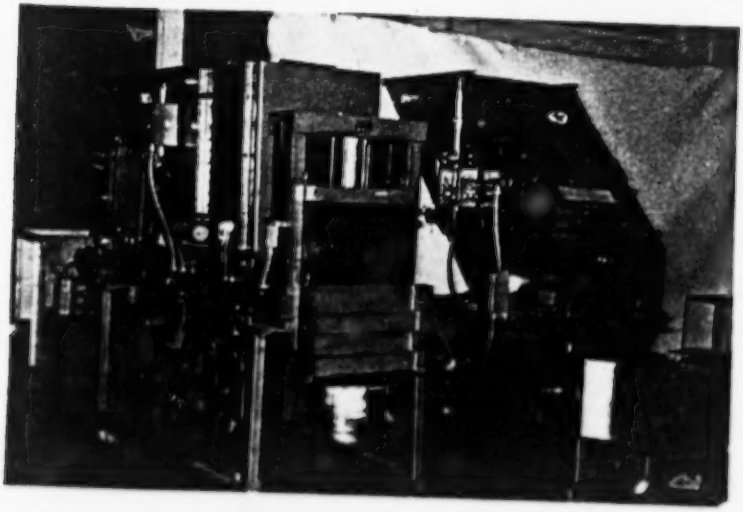

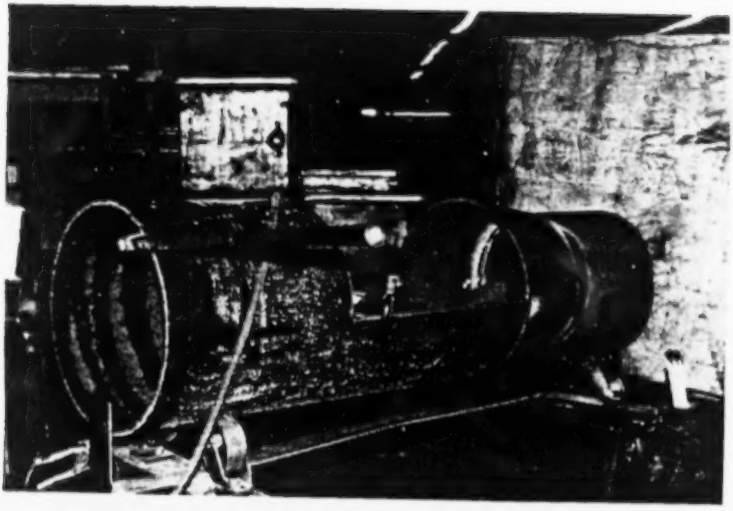

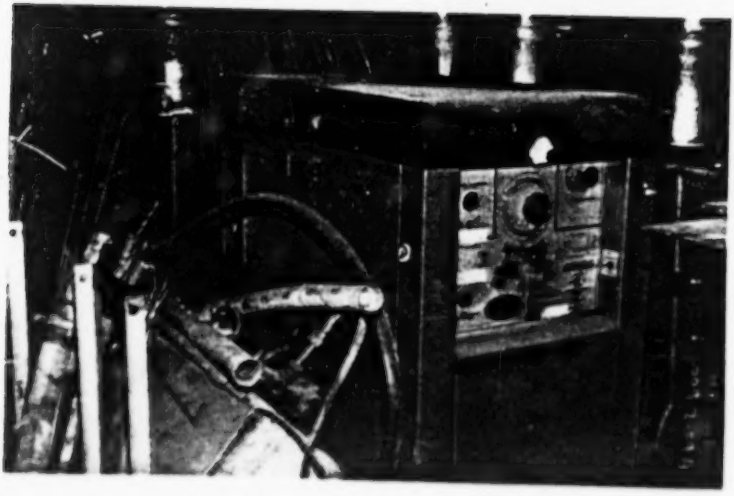

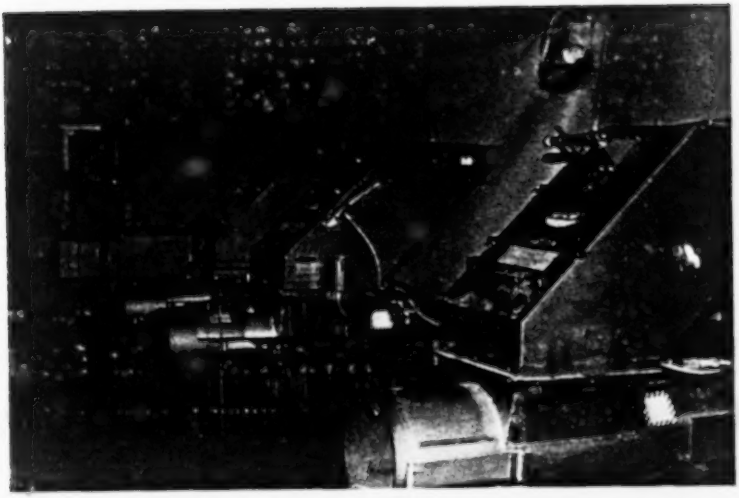

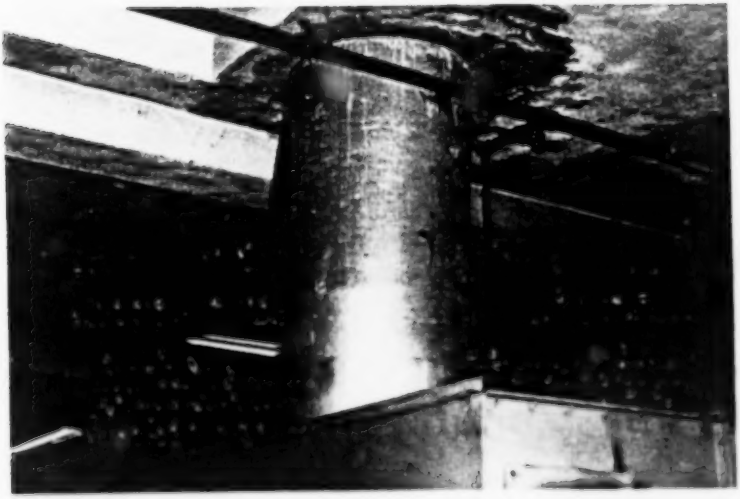

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The Hackensack Municipal Court. Yes, I refuse to hear it at this time. (Regarding Multi-Pak).

T23-1. Mr. Moretti. Well, I believe --

The Court. Mr. Moretti, I've stopped you. Now please.

Mr. Moretti. You've advised me to do something.

The Court. Officer, if he, if he doesn't stop, put him in a cell. Now, I'm, Mr. Moretti. I have people here in court.

On March 16, 17, and 18, 1981, the Chancery Court heard the three cases (Friendship House, Multi-Pak, and Gutterman-Musicant-Kreitzman) on a consolidated basis, denoted as Salvatore Moretti and ROR Construction Corporation v. Multi-Pak Corporation, et al. (C-2541-79), ROR Construction Corporation v. Friendship House et el. (C-4640-78), and ROR Construction Corporation v Gutterman, Musicant, and Kreitzman, Inc. (C-545-78), Hon. James J. Petrella, J.S.C. presiding. The interchange between Judge Petrella and Salvatore Moretti characterized the conduct of the entire trial as one in which judge bias interferred with the fact finding and decision of the court. Excerpts follow:

T1.52-23. The Court. Just don't volunteer. As I tell all witnesses, it is like the army, you can only get in trouble if you volunteer. Please just listen to the questions, only answer the questions. The only thing I could hear from any witness are the facts, not opinions or anything else. Mr. Moretti. I insist on answering the question. The Court. I am telling you, if you do so, it may result in sanctions, including striking everything you say from the record, including dismissing your action, including a lot of other things.

Note: This interchange occurred after only two questions were asked of Salvatore Moretti the first time he took the witness stand, and after he uttered only seventeen words in response to the two questions.

T1.93-16. The Court. I should be able to -- we will go until Mr. Mack has indicated, one of the principals of his defendants (David Musicant) has untimely passed away, so that the - give me some idea of the time. Mr. Mack. Mr. Gutterman has to leave here at 11 o'clock . . . I would like to go to the funeral, it starts at twenty to 12.

T2.24-25 Mr. Moretti. I am just describing what I see. Your Honor, I would like to make a statement at this time.

The Court. Mr. Moretti, you will either continue with the slides and testify, or that's it. There are no statements. You are testifying. If there is an objection you have to wait.

Mr. Moretti. Your Honor, I heard what you said.

The Court. Lets testify, go on with the slides.

Mr. Moretti. I am going to testify on this slide.

The Court. You did already. Proceed with the next slide.

Mr. Moretti. Since an objection was raised —

The Court, You do not answer an objection, sir, you just testify. If there is a response, your attorney will respond.

Mr. Moretti. You interrupted me thirty times.

The Court. I will interrupt you constantly if you don't obey my instructions. If you don't obey, that's it, and I will strike your testimony. If you want me to hear your testimony, move on.

Mr. Moretti. This is a very minor point.

The Court. I don't care if it's minor or not.

T2.80-17. Q. (Mr. Evans, attorney for ROR Construction Corporation) Mr. Moretti, turning your attention to Friendship House, were you a tenant in 391-397 Park Street in or about 1975.
A. (Mr. Moretti) Yes, I was.

Q. Did you at any time observe individuals occupying 387 Park Street in 1975.
A. Yes.

Q. Did you make inquiry of those individuals as to whether or not they were using the premises under any organization?
A. Well, I did. I spoke to the various individuals living there, being a next door neighbor to them and having my -- my apartment was only 30 feet away.

Mr. Losche: I would like the Court to direct the witness to answer the question.
The Court: All right Mr. Moretti, again, I have to admonish you, just listen to the queston, only answer the question, do not volunteer. There are no special rules for various people. You have to abide by the same rules as every other witness. Only answer the question. If you continue to do this, I will have to impose some sanction which could include dismissing of your complaints, could mean striking all of your testimony, so if you want me to hear understand, I would think it should be done in a way that I could comprehend. Please answer the questions because only facts can I consider, I cannot consider opinions, beliefs, and so forth. If you volunteer excessively and you keep persisting in this, that is something I take into account in deciding the case.

T3.23-19. The witness (Mr. Moretti). Well, could I consult with my attorney?

The Court: Are you saying you do not want to answer the question?

The Witness: No, I want to answer all of the questions.

The Court: Then you'd better answer this question.

T3.66-7. Q. (Mr. Evans) Were you or were you not able to secure the maximum rent you were permitted?
A. (Mr. Moretti) We were not, and as a matter of fact we had for a period of a year large vacancies, a large number of vacancies.
The Court: That is not the question. You are volunteering now.

Prior to the Chancery trial, certain difficulties arose regarding the testimony of Richard Galofaro, who had been employed as an environment consultant by Salvatore Moretti to testify at the Chancery trial. Subsequent to trial before Judge Petrella, this dispute surfaced when Galofaro filed a complaint against Moretti Realty Associates, Ltd. and Moretti Realty counter-claimed for breach of contract and malpractice. The case was tried before the Bergen County District Court, Docket No. 472078, heard on May 27 & 28, 1982, before Judge Paul R. Huot, J.S.C. Judge Huot directed a verdict on behalf of Galofaro in this jury case (the jury was dismissed after the defendant counter-claimant Moretti Realty presented its case). The case is pending with the Appellate Division, Docket No. A-4992-81 T1. The issue of Galofaro's malpractice complicates even further the Chancery trial involving Multi-Pak, and makes yet more hazardous reliance upon those Chancery judgments. Excerpts from the transcript of proceedings will show the extent to which plaintiffs are being denied their due process rights to a fair hearing.

Judge Huot addressing Salnatore Moretti, who is on the witness stand:

T28-10. Do you understand me? What I am saying to you. Then obey it.

T60-8 Do not invade the province of the jury.

T61-24. It doesn't make a darn bit of difference in this case, no matter whether you rented those (apartments) today for $25 a month or $25,000.

T66-7. Now, you're attempting to invade the province of the jury.

T2.7-10. Mr. Moretti, you have (a basic problem) in understanding why you are here.

T2.11-4. But what he (Galofaro) said in the Chancery case, what he knew, the validity of the opinion, if any, that he rendered in that case is immaterial to this, at this moment.

T2.21-24. Please, don't argue with me.

T2.36. You're arguing.

T2.52-4. Look, I'm not arguing with you, I'm telling you that's my ruling.

T2.56-20. No, you're not having any more of my indulgence, get to the point.

T2.63-8. I've already ruled, don't argue with me.

T2.65-8. No one can help anybody who refuses to be helped.

T2.65-8. You either will not or cannot understand what I'm saying.

T2.78-14. The Witness (Moretti) is unable or unwilling to understand.

In order to avert a mistrial, Moretti attempted to address the Court out of the hearing of the jury. The Court responded as follows (T2.64, 8-21):

1. A little learning is a dangerous thing.

2. You are not as smart about the law as you think you are.

3. You are attempting to be very shrewd.

4. You are totally off base, you have been since the beginning of this case.

5. You are creating your own problems, Mr. Moretti.

6. You refused to listen and take any advice.

7. You cannot comprehend that the issues are framed by the pleadings.

8. No one can help anybody who refuses to be helped.

Most recently this continuing stream of judge bias has been indicated in the hearing on a motion to produce tax records, etc. heard by Judge Leo Yanoff, J.S.C. heard on September 17, 1982 (hearing on a Motion for Partial Summary Judgment, etc., brought by defendants in the Moretti et al. v. Hollis et al. case, L-48567-79). The trial judge's comments typify the statements made by Judge Joseph Zisa quoted above.

T28-18. The Court (Judge Leo Yanoff): Mr. Moretti, if I had a sergeant-at-arms here, I would have--I am putting this on the record--I would have to direct him to physically take you away from the counsel table.

Now, if you proceed, I am going to send for somebody to do that, Mr. Moretti. I'm going to give you three minutes to clear that table, or I am going to send for a sheriff's officer to remove you.
Mr. Moretti: Your Honor, It won't take me three minutes.

The Court: Let the record show that I am stepping off the bench and I will be back in three minutes. If you have not gone I am going to send for a court officer.

Taking all of these proceedings together, we can see that judge bias and even perhaps at times judge malice is depriving plaintiffs of their due process right, of their rights to own and operate real property and a real estate business in Hackensack. The malpractice of the defendant law firm of Pessin and Hoolis during 1977 to 1979 deprived plaintiffs of their due process rights. Such deprivation should not continue to the present. Plaintiffs therefore appeal to the New Jersey Supreme Court to set aside the granting of summary judgement as to counts one, three, four, and eight of the amended complaint.

CONCLUSION

For the reasons hereinabove set forth, plaintiffs respect-. ..

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY
May 12, 1980
Docket No. L 48567 79
Salvatore Moretti,

Plaintiff

v.

Robert A. Hollis, Esq.,
L. Steven Pessin, Esq.,
And Pessin And Hollis, Esqs.,

Defendants

CONTRACT: LEGAL MALPRACTICE

The Plaintiff, Salvatore Moretti, a resident of 391 B Park Street, Hackensack, New Jersey, and a property owner of property located at 391-7 Park Street, Hackensack, New Jersey, is an Officer of ROR Construction Corporation. Plaintiff is a resident manager of Park Court Apartments located at 391-7 Park Street, Hackensack, New Jersey. Plaintiff says:

FIRST COUNT

1. The Defendant, Robert A. Hollis, Esq. (hereafter, Hollis) maintains a law office at 90 Main Street, Hackensack, New Jersey. Hollis is admitted to the practice of law in the State of New Jersey. Hollis changed his name from Robert A . Holopigian to Robert A. Hollis on or about 1977. L. Steven Pessin was a law partner of Hollis during the period when Hollis represented Plaintiff as Plaintiff's attorney. L. Steven Pessin now maintains his law office at 1419 Oak Tree road, Iselin, New Jersey.

2. The Plaintiff, Salvatore Moretti, retained the legal services of Hollis in May of 1977. Hollis represented Plaintiff as both his personal attorney and on matters relating to Park Court Apartments, where Plaintiff resided and still resides. Hollis represented Plaintiff from May, 1977 to April, 1979.

3. Hollis accepted Plaintiff as his client and in no way represented that he was not his legal representative between May, 1977 and April, 1979. Plaintiff paid Hollis $3,265.00 by checks, all of which were cashed by Hollis and bear his signature as an endorsement, or the endorsement of the law firm of Pessin and Hollis. A schedule of payments to Hollis is attached and is make a part of this complaint.

4. Hollis represented Plaintiff in a case against the North Jersey Friendship House, Inc. (hereafter, Friendship House). Friendship House leased a boarding house adjacent to Plaintiffs property, and known as 387 Park Street, Hackensack. Hollis appeared twice before the Hackensack Board of Adjustment on January 18, 1978 and February 15, 1978 in this case. Friendship House had begun operating a psychiatric halfway house without securing the required approval from the municipal zoning board. Hollis filed a complaint in this case on April 1, 1978, said complaint being filed with the Superior Court of New Jersey. Hollis represented to Plaintiff that he was pursuing the matter fully in the Superior Court, and that a court trial would be scheduled in this case.

6. In fact, Hollis provided Plaintiff a copy of the complaint filed with the Superior Court, i.e. Salvatore Moretti and ROR Construction Corporation v. Board of Adjustment of the City of Hackensack, Wilbur Lind, Building Inspector of the City of Hackensack, Joseph J. Squillace, City of Hackensack City Manager, Gutterman-Musicant-Kreitzman, Inc. A New Jersey Corporation, and Friendship House, a New Jersey corporation, L31148-77. However, once filed with the Court, Hollis failed to serve the complaint on the Defendants. Since the complaint was never served on the Defendants, no trial date could be set.

7. On October 20, 1978, Hollis informed Plaintiff, Salvatore Moretti, that the Friendship House case was scheduled for a trial date on either November 17 or November 19, 1978. In fact, no trial date could be scheduled since Hollis had never notified the defendants that a complaint had been filed against them.

When there is such a failure of service of process, the Court notifies the Plaintiff's attorney that there has been a failure to prosecute the complaint, and that unless service occurs, the complaint will be dismissed.

8. On October 25, 1978, an Order of Dismissal was signed by Theodore W. Trautwein, Court Administrator, dismissing the Friendship House case. This Order was received by the Bergen County Clerk's Office on November 9, 1978.

9. Due to Hollis' failure to handle this matter properly, the psychiatric patients who were housed at the Friendship House psychiatric halfway house adjoining Plaintiff's property caused numerous problems, including disturbance of the peace and quiet of the neighborhood by sexually abnormal behavior. Psychiatric residents of the halfway house, which was leased to Friendship House by the Gutterman-Musicant-Kreitzman mortuary (located at 402 Park Street, Hackensack), harrassed Plaintiff and the tenants of Plaintiff, threatened them with physical assault, verbally abused them, and so forth. Sexually promiscuous behavior by the halfway house residents caused a number of rape attempts; Hollis stated that one psychiatric resident of the halfway house was raped.

10. Plaintiff was required to retain alternate legal counsel and file a new complaint since Hollis' complaint could not be reinstated.

SECOND COUNT

11. Plaintiff repeats the allegations of the First Count, all paragraphs, 1 through 10 inclusive.

12. Hollis represented Plaintiff at the Hackensack Zoning Board hearing on July 19, 1978. At this hearing, Plaintiff opposed the application of the Jademar Industrial Company, Incorporated, to demolish a house and construct an office building which required a number of set-back variations and

variations as to the size of the lot. The variance requested was on property 65 feet from the apartment house owned and operated by Salvatore Moretti, the Plaintiff.

13. Hollis drafted a complaint appealing the decision of the Zoning Board of Adjustment for filing in the Superior Court, Law Division. Hollis gave Plaintiff a copy of the filed complaint in this case. Nevertheless, Hollis failed to serve the complaint on the defendants, Jademar Industrial Co., et at. The complaint, L323-78P.W., was filed on September 1, 1978.

14. Since Jademar Industrial Co. was never notified of the existence of this complaint by Hollis, they proceeded to demolish the house located at 383 Park Street, and began construction of their office building.

15. Hollis stated that a busy court calendar was holding up the hearing date by the Superior Court. In fact, no trial date could be scheduled since Hollis never served the complaints on the defendants.

16. When Jademar Industrial Co. began constructing their office building on or about March 19, 1979, Hollis stated that he would obtain a stay to prevent construction, which he failed to do. Plaintiff went to the office of Court Administrator Conrad Roncati, with whom he had communicated (along with Assignment Judge Theodore Trautwein) regarding problems with Hollis. Roncati stated that Hollis had failed to serve summonses on the defendants in the Jademar case, and recommended securing alternate legal counsel. Plaintiff did secure alternate legal counsel at this time, replacing Hollis in all legal matters outstanding at this time.

17. Alternate legal counsel was required to retrace all steps in this legal matter and institute corrective legal actions to prosecute this matter. In fact, the Jademar Case was appealed to

the Appellate Division of the Superior Court. On April 23, 1980, the Appellate Division decided that the Hackensack Board of Adjustment had granted this variance improperly to the Jademar Industrial Co.

18. Plaintiff maintains that were it not for Hollis' malpractice, Jademar would not have been allowed to demolish a two family house, and would have been required to use their property in a way suitable to the residential nature of the neighborhood, instead of proceeding as they have.

THIRD COUNT

19. Plaintiff repeats the allegations of the First and Second Counts, all paragraphs, 1 through 18 inclusive.

20. Hollis represented Plaintiff Salvatore Moretti and Plaintiff's Company, ROR Constructin Corp., against the Multi-Pak Corporation. Multi-Pak leased a factory owned by Arnold Bornstein, Esq. at 402 East Railroad Avenue, Hackensack, New Jersey. This factory is located on the westerly boundary of Plaintiff's property. Multi-Pak, without securing a variance on its property, began using this property to manufacture heavy steel garbage compactors. Multi-Pak secured a license to weld and to paint on its leased premises.

21. Hollis represented to Plaintiff that he was attempting to obtain an injunction against the Multi-Pak Corporation. Hollis required that Plaintiff sign an Affidavit on June 13, 1978 against the Multi-Pak factory. Hollis alleged that he was incorporating this affidavit into a complaint which he was filing with the Superior Court in order to abate the nuisance complained of. Among other things, the Affidavit recorded the fact that noise meter readinvs of as high as 90 decibels were recorded at the property line of Plaintiff facing the Multi-Pak factory. These recordings were due to the banging on steel plates and the dropping of 1,000 pound steel slabs on the concrete floor by Multi-

Pak. The Multi-Pak factory is constructed six inches from Plaintiff's property, but this factory is zoned for only light industrial use where noise and odor are restricted by the Hackensack Zoning Code.

22. On August 2, 1978, Hollis stated that he was proceeding via an Order to Show Cause against the Multi-Pak Corporation to abate the noises and odors (from maintaining a paint facility to paint the garbage containers) complained of.

23.On or about August 17, 1978, I sent Hollis a notice from Wilbur Lind regarding the Multi-Pak plant, said notice to be incorporated in the compalint filed against Multi-Pak.

24.Hollis stated that he was meeting with various Judges about the Multi-Pak factory, Judge Lester, Judge Trautwein, etc.

25. On December 14, 1978, Hollis met with Plaintiff and stated that he had filed the Multi-Pak complaint with the Superior Court.

26. On January 31, 1979, Hollis stated that the Jademar Industrial Company, the Friendship House, and the Multi-Pak cases all would be scheduled for trials shortly. Hollis provided Plaintiff a copy of the complaint against Multi-Pak which he alleged that he had filed with the Superior Court. In fact, none of these cases could be scheduled for trials, since no summonses were served on the defendants in these actions, and Hollis never filed the Multi-Pak complaint in the Superior Court.

27. On December 1, 1978, Plaintiff wrote to Theodore Trautwein, Bergen County Assignment Judge, and on or about that date communicated with the Court Administrator, Conrad Roncati, regarding Hollis' legal representation and the problem

in securing trial dates in the Multi-Pak, Friendship House, and Jademar Industrial Co. cases.

28. Plaintiff contacted the Superior Court Clerk's Office in Trenton and the Bergen County Clerk's Office in Hackensack, and was informed that the Multi-Pak complaint was never filed. Plaintiff filed the Multi-Pak complaint himself in March of 1978.

29. As a result of the failure of Hollis to proceed against Multi-Pak, Plaintiff, and the other residents of Park Court Apartments managed by Plaintiff, suffered from excessive noise levels and the odor of paint fumes from the Multi-Pak factory. Loss of rent, loss of business reputation, and personal expenses by Plaintiff were caused by Hollis. Plaintiff has been required to secure the services of alternate legal counsel to secure legal relief in the Superior Court asgainst the Multi-Pak factory.

FOURTH COUNT

30. Plaintiff repeats the allegations of the First, Second, and Third Counts, all paragraphs, 1 through 29 inclusive.

31. On June 25, 1979, Plaintiff filed a complaint against Hollis with the Bergen County District Ethics Committee, Case No. II - 79 - 41E. This ethics complaint is summed up by the first three counts in this complaint.

32. By way of reply to the ethics complaint, Hollis submitted a certified statement dated July 20, 1979. This statement admitted that he failed to serve the summonses and complaints on the defendants in the Jademar and the Friendship House cases. The reply also admitted that Hollis had never filed a complaint with the Court or served the complaint and the summons on the defendants in the Multi-Pak case.

33. By way of defense, Hollis claimed "relative inexperience in civil matters, and the stress of psychological problems."

34. In fact, Plaintiff repeatedly spoke to Hollis in person during the course of Hollis' legal representation, and Hollis appeared to be in good psychological health to Plaintiff, who holds a Bachelor's Degreee in Psychology. In fact, Hollis purposely manipulated Plaintiff by mis-informing him as to the status of pending litigation, contrary to the ethical standards of the legal profession. Hollis jeopardized the rights of Plaintiff, and by failing to act in a timely manner, and prejudiced the cases of Plaintiff. Hollis also caused a loss of moneys to Plaintiff, due to the increased time and effort required to supervise Plaintiff's property under the adverse conditions herein described.

35. Despite Hollis' claims of mental ill health, Hollis ran for the City Council in Hackensack in 1977, and received 1063 votes. Hollis holds a Bachelor of Science Degree from Rutgers College, a Juris Doctor degree from the American University; Hollis was President of the Student Bar, was a Dean's Scholar, and a member of "Who's Who." Hollis was elected outstanding law student of 1971. Hollis has resided in the City of Hackensack for thirty years, where he continues to reside with his wife.

36. On April 3, 1980, the District Ethics Committee met and issued their own complaint against Hollis. Plaintiff has ordered a transcript of the hearing from Barry Gold, C.S.R.

37. Hollis' reply to the Ethics Committee is meant to mask a deliberate attempt to imperil the legal rights of Plaintiff, and to disguise the legal manipulation which Hollis exercised over Plaintiff.

FIFTH COUNT

38. Plaintiff repeats the allegations of the First through Fourth Counts, all paragraphs 1 through 37 inclusive.

39. Plaintiff repeatedly requested Hollis to abate a nuisance emanating from a boarding house property located at the corner of Park Street and Passaic Street, known as 111 Passaic Street, Hackensack. This property was fifty feet from Plaintiff property, Park Court Apartments. The boarding house property was owned by Jes Realty Ltd., and mortgaged by Hyman Chait.

40. The problems emanating form this boarding house included barking dogs, blasting radios, loud parties, fights, and harrassment of the entire neighborhood including Plaintiff's tenants at Park Court Apartments. Complaints to the City of Hackensack proved fruitless.

41. By letteer dated August 17, 1977, Joseph J. Squillace, Hackensack's City Manager, stated that the Hackensack police department found that "between January 25th and August 4th, 1977, there were eighteen complaints made to the police department relating to 111 Passaic Street.

42. Despite Plaintiff's repeated requests that Hollis act to secure legal remedy for this nuisance, Hollis did nothing. As a result, tenants were insulted by the residents of the boarding house; tenants were unable to sleep many nights due to all-night parties. Some tenants threatened to move out of Park Court Apartments, and some tenants did move out of Plaintiff's apartment house due to these disturbances.

43. Despite continuous complaints to the City of Hackensack and requests that Hollis remedy this problem, nothing was done. On March 10, 1978, 111 Passaic Street was burned down by a major fire which spread immediately throughout the entire house. Arson was suspected. The house was demolished during the summer of 1978.

44. Due to Hollis' inaction, an attractive residential structure was destroyed in our immmediate neighborhood, Plaintiff's tenants were harassed and inconvenienced, Plaintiff himself suffered sleepless nights.

SIXTH COUNT

45.Plaintiff repeats the allegations of the First through Fifth Counts, all paragraphs, 1 through 44 inclusive.

46. On June 22, 1977, at 3 p.m., Plaintiff Salvatore Moretti was driving eastbound on Banta Place in Hackensack, New Jersey. Susan Pollard, of 311 Division Avenue, Hasbrouck Heights, New Jersey was also driving eastbound on Banta Place, and operating a Celica GT Toyota vehicle, license plate number 359-EYX.

47. Susan Pollard collided with the auto Plaintiff Salvatore Moretti was driving, knocking Plaintiff unconscious and damaging the Pontiac vehicle driven by Plaintiff. Plaintiff was stopped in the halted line of traffic on Banta Place for approximately six seconds prior to the collision in which Pollard drove into the rear of Plaintiff's vehicle.

48. As a result of this collision, Plaintiff suffered lower back injuries, and Plaintiff was placed under the medical care of Dr. Ralph E. Ricciardi of 7523 Broadway, North Bergen, New Jersey. The Bogota Auto Body Works located in Bogota, New Jersey, inspected Plaintiff Salvatore Moretti's vehicle and estimated that there was $152.78 of dammage. This estimate was given on June 24, 1977.

49. As a result of this rear end collision, Plaintiff was unable to sleep for a week, due to the back injury incurred. Plaintiff in addition was unable to work at his normal job as resident manager of Park Court Apartments for more than one month. Plaintiff occassionally fell down, due to the pinched nerve incurred by the rear end collision.

50. Plaintiff informed Hollis of these facts. Despite this, Hollis failed to file the necessary court papers in order to institute a torts suit against Susan Pollard. The cause of action has now lapsed due to the statute of limitations in such law suits. Plaintiff continues to suffer from lower back pain due to this injury sustained in June, 1977.

51. Due to Hollis' negligence and failure to live up to his contractual responsibility to represent Plaintiff as his attorney, Plaintiff rights have been lost in this case.

SEVENTH COUNT

52. Plaintiff repeats the allegations of the First through Sixth Counts, all paragraphs, 1 through 51, inclusive.

53. Plaintiff filed a real estate tax appeal on or about August 15, 1978, to secure a reduction in assessment on his apartment house property, Park Court Apartments, due to the economic obsolesence depreciating the value of the apartment house. The causes of the external Diseconomies have been set forth in this complaint - that is, the nuisances here complained of.

54. Hollis represented Plaintiff at the Bergen County Tax Board hearing in this case. At the hearing, Hackensack Tax Assessor John J. Johnson stipulated to a reduction in the assessment of land value of Park Court Apartments, provided he received a certified survey showing the square footage of land occupied by Park Court Apartments. The Hackensack property record card stated that Park Court Apartments occupied 19,025 square feet of land. The survey and deed showed 18,058 square feet, 967 square feet less. With an assessment computed at $4 per square foot, the 967 square feet of extra land worked out to $3,868. Assessor Johnson stipulated to this reduction, only if he received a certified survey shortly after the hearing in order to make the change for the coming year.

55. Hollis promised to supply this survey to the assessor, and to facilitate this, Plaintiff immediately delivered a copy of the certified survey to Hollis for mailing to the Assessor. Hollis claimed that he delivered the survey. Assessor Johnson claimed that he never received the survey from Hollis, and hence maintained his record as to land square footage and assessment for 19,025 s.f. The taxes had to be paid for an additional year at the increase rate, due to Hollis negligence in not mailing the survey to the assessor.

EIGHTH COUNT

56. Plaintiff repeats the allegations of the First through Seventh Counts, all paragraphs, 1 through 55 inclusive.

57. Plaintiff set before Hollis facts relating to nuisance caused by the operation of a mortuary which is located on property adjacent to Plaintiff's property. The facts complained of included illegal parking on Plaintiff's property, processions lined up so as to block ingress and egress to Plaintiff's property, failure of the mortuary to restrict its activities to its commercially zoned property, and so on.

58. Hollis failed to file the necessary court papers in this case. As a result Plaintiff and the tenants of Plaintiff have been inconvenienced and disturbed by the nuisances created by the subject mortuary's operation. These complaints have had to be litigated by subsequent legal counsel secured by Plaintiff.

NINTH COUNT

59. Plaintiff repeats the allegations of the First through Eighth Counts, all paragaphs, 1 through 58 inclusive.

60. Hollis informed Plaintiff that he was handling mortgage termination with Plaintiff's bank, Oritani Savings and Loan Association. Upon contacting Oritani Savings and Loan, Plaintiff was informed that Hollis never contacted them in this matter. Despite repeated requests that Hollis handled the final payments and the termination of a loan, and despite Hollis' repeated statements that he had contacted Oritani Savings and Loan, in fact Hollis never followed through and never contacted this bank at all.

61. As a result, Plaintiff was required to handle these matters himself. Nevertheless, Hollis claims in his reply to the District Ethics Committee that handled this matter for Plaintiff, and apparently holds moneys for work which he never did.

TENTH COUNT

62. Plaintiff repeats the allegations of the First through Ninth Counts, all paragraphs 1 through 61 inclusive.

63. On January 2, 1979, Plaintiff was addressing the Hackensack City Council on the Taxation of Plaintiff for property which Plaintiff did not own, specifically the 967 square feet noted in paragraph 54 of this complaint.

64. Hackensack Mayor Frank Zisa, for no reasons which can be discerned, ordered a Hackensack policeman to physically remove Plaintiff from the speakers stand. The policeman did carry out the orders of the Mayor and grabbed Plaintiff from behind and dragged him away from the speakers stand.

65. Hollis was informed of the details of this case, but he failed to take action against the Mayor or any other person in this matter.

66. Failure of Hollis to take the appropriate legal remedy resulted in a loss of reputation by Plaintiff and in a loss of economic earnings due to the interference with Plaintiff's right to free speech and in defense of Plaintiff's right to possess property and gain a livelihood therefrom.

WHEREFORE, PLAINTIFF DEMANDS JUDGEMENT on each and every Count in this Complaint:

a.) Damages against Hollis and his law partner, L. Steven Pessin, for legal malpractice, and breach of the contractual obligations imposed upon an attorney to represent the interests of his client.

b.) Direct damages against Hollis and his law partner, L. Steven Pessin, as to the immediate, natural, and anticipated consequences of the legal malpractice described herein.

c.) Consequential damages which flow from the consequence of the legal malpractice of Hollis and his law partner L. Steven Pessin, and which depent upon the special circumstances of this case. These injuries include damages for mental distress and related personal injuries sustained by Plaintiff, injuries to reputation, economic losses, and legal expenses incurred in prosecutting Hollis for his malpractice.

d.) Exemplary or punitive damages due to the negligence of Hollis and his law partner, L. Steven Pessin, in representing Plaintiff.

e.) Whatever statutory damages may be available for the fraud, deceit, and dishonest acts of Hollis here described.

f. Return of all money, with interest, charged by Hollis to Plaintiff, which moneys were secured under the promise to render legal services which in fact were not secured by Plaintiff.

DATE: MAY 9, 1980
SALVATORE MORETTI, PRO SE
PLAINTIFF

JURY DEMAND

Plaintiff demands a trial by Jury on all fact issues in this case, said issues to be submitted for jury determination as to the money damages and the nature and degree of harm caused by Defendants, Hollis and L. Steven Pessin

DATE: MAY 9, 1980
SALVATORE MORETTI, PRO SE
PLAINTIFF

Exhibit NNN-1

SUPREME COURT OF NEW JERSEY

Disciplinary Review Board

Docket No. DRB 81-11

IN THE MATTER OF
ROBERT A. HOLLIS
AN ATTORNEY-AT-LAW

Decision and Recommendation of
the Disciplinary Review Board

Argued June 17, 1981
Decided June 17, 1981

Robyn M. Hill, Staff Attorney, Division of Ethics and Professional Services, argued the cause for the District II Ethics Committee.

The respondent appeared *pro se*.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey:

This matter is before the Board based upon a presentment filed by the District Ethics Committee for Bergen County. The presentment describes numerous instances of negligent conduct on the part of respondent, summarized as follows:

I. **MORETTI MATTER**

Beginning in March of 1978, the respondent was retained by Salvatore Moretti to represent him personally and to also represent his company, the ROR Construction Corporation, in three separate matters.

A. MORETTI V. BOARD OF ADJUSTMENT OF HACKENSACK AND FRIENDSHIP HOUSE

Moretti retained the respondent to institute suit aginst the Board of Adjustment of Hackensack and Friendship House in connection with a zoning variance. A complaint was filed in April of 1978 with the Superior Court, Law Division, Bergen County. On October 25, 1978, the complaint was dismissed by the Honorable Theodore Trautwein, J.S.C. for failure to prosecute the matter, since respondent neither served nor attempted to serve the summons and compaint. Although respondent thereafter communicated with his client on numerous occasions, he failed to advise Moretti that the matter had been dismissed. To the contrary, respondent advised Moretti that a hearing was scheduled for November 17, 1978. Moretti retained new counsel in April of 1979.

B. ROR CONSTRUCTION CORPORATION V. BOARD OF ADJUSTMENT AND JADEMOR INDUSTRIAL COMPANY

Respondent was also retained by Moretti to represent ROR Construction Company in a suit against Jademor Industrial Company and the Hackensack Board of Adjustment. Although respondent prepared and filed a complaint, dockered as L.323-78, with the Superior Court, Law Division, Bergen County, he failed to serve the summons and complaint upon the defendants. Respondent then misrepresented the status of the case to his client on several occasions by stating that they were awaiting a court date.

In April of 1979, the file was turned over to Morettis' new counsel.

C. MORETTI ET ALS. V. MULTI-PAK CORPORATION

Moretti retained respondent to institute suit against Multi-Pak Corporation to obtain a restraining order to prevent Multi-Pak from maintaining a nuisance. A complaint was never filed, although the complainant testified that respondent had advised to the contrary. The respondent denied so advising his client. He testified that he was told by the law clerk to the Bergen County Chancery Judge that more than one affidavit was necessary to obtain a restraining order. Respondent claimed to have so advised his client.

In addition, respondent stated that the attorney for Multi-Pak had verbally agreed that the company would institute noise abatement procedures. That agreement was not confirmed in writing. Respondent testified that until his client again complained to him in the fall of 1978, he assumed that the matter was resolved.

Although respondent had not filed a complaint in the matter, a bill dated June 16, 1978 paid by Moretti reflected charges for 3½ hours of work in the preparation of the complaint as well as for a $60. filing fee. Moretti obtained a copy of the complaint from respondent in December, 1978 and filed it with the Superior Court.

Following hearing, the Committee determined that respondent's conduct with regard to the three cases in which he was to represent Moretti exhibited both a pattern of negligence and gross negligence in violation of DR 6-101 (A).